April 22

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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 229.

THE NEW YORK HARBOR PROTECTION COMPANY, APPELLANT,

vs.

THE AMERICAN SCHOONER CLARA, HER TACKLE, ETC.—AUGUSTUS M. COX, LEMUEL H. HOPKINS, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED OCTOBER 11, 1873.

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a U. S. circuit court.

THE NEW YORK HARBOR PROTECTION COMpany, libellant and appellant,
vs.
THE SCHOONER CLARA, HER TACKLE, &C., AUgustus M. Cox, and others, claimants and appellees.
} Filed April 23, 1872.

1 To the honorable Samuel Blatchford, United States district judge for the southern district of New York:

The libel of "the New York Harbor Protection Company," owners of the American steamboat called the Clara Clarita, for themselves and all others entitled, against the American schooner called the Clara and against all persons intervening for their interest therein, in a cause of salvage, civil and maritime, alleges as follows:

First. That the libellants are a body-corporate, duly incorporated under the laws of the State of New York, and authorized as such body-corporate to perform the services hereinafter set forth and to earn and become entitled to salvage compensation therefor, as hereinafter claimed.

Second. That the libellants, at the several times hereinafter mentioned, were and still are the sole owners of the American steamboat Clara Clarita, and that as such owners they, and their said steamboat, the Clara Clarita, were and still are employed in the business in towing vessels, and in aiding, protecting, and saving vessels and their cargoes, wrecked or in distress, in the harbor of New York and the waters of the East River and North River, and the bays and waters adjacent to said harbor in the State of New York, or bordering on said State; and that, with the special object and purpose of fitting and enabling their said steamboat to render efficient assistance to vessels on fire or threatened with conflagration, the libellants furnished and equipped their said steamboat with special and expensive apparatus for extinguishing fires by means of powerful pumps and hose, and procured, at great expense, the services of a competent commander, having great experience in the business of extinguishing fires, and manned her with a competent crew, skilled as well in the use of said fire apparatus as in the ordinary management of the vessel, and kept the said steamboat in constant
2 readiness for service with crew on board, and fires banked, so that at any time, within a few minutes, she could be set in motion and brought into immediate service for the extinguishment of fires in any portion of the harbor of New York.

Third. That on the evening of the first day of August, 1870, the said steamboat Clara Clarita was lying at her wharf at the foot of Canal street, in the North River, with crew on board and fires banked, as aforesaid, when a fire was discovered by those in charge upon a ferry-boat then lying in a slip or dock on the New Jersey shore, which boat was afterwards discovered to be the ferry-boat James Watt.

That immediately upon the discovery thereof the Clara Clarita was got under weigh, and proceeded across the river to render assistance to the burning boat; and upon coming within hail of said boat the master of the Clara Clarita was requested by those in charge of said ferry-boat to pass his hose on board and use his pumps in extinguishing said fire; that thereupon, and acting upon such request and under the employment of those in charge of said ferry-boat, the master and crew of the Clara Clarita passed their fire-hose on board and used their best efforts, with the appliances in their possession, to extinguish the flames; but that, in spite of their best

exertions, the flames gained upon them, and when it became apparent to those in charge of said ferry-boat that the fire could not be subdued by ordinary means, fearing lest the conflagration should be communicated to the adjoining wharves and the vessels attached thereto, they requested the master of the Clara Clarita to take the said ferry-boat in tow and drag her out of the slip, for the purpose of beaching her upon Hoboken Flats or in some other safe place, where, even if she could not be saved herself, she would be prevented from causing damage and danger to others. That in compliance with such request, and under the employment of those in charge of said ferry-boat, the master and crew of said Clara Clarita made fast a hawser to said ferry-boat and dragged her clear of the slip, and started with her on the way to Hoboken Flats, about a quarter of a mile distant from the slip where she lay; that at the time of thus starting for said flats the flames were chiefly confined to the hold of said ferry-boat, and there was every reason to believe that she could be successfully towed to and beached upon the flats aforesaid; that, as both wind and tide were setting up the river, as soon as the ferry-boat was got clear of the slip, the Clara Clarita hastened with her under full steam, with the wind and tide, to aid her towards the nearest place of safety; but the flames suddenly breaking out with new violence in all parts of the ferry-boat, the hawser by which she had been made fast to the Clara Clarita, and by which she was being towed, was burned off, and she swung adrift into the stream; that afterwards another hawser was made fast and she was again taken in tow, but the second hawser was also soon afterwards burned away and the ferry-boat drifted off a second time, and in spite of all efforts that could be used to prevent it, and without any fault or negligence on the part of the master and crew of the Clara Clarita, drifted, under impulse of the wind and tide, against and upon the schooner Clara, which was lying at anchor in the North River, a little to the north and east of the ferry-slip; that still another hawser was afterwards made fast to said ferry-boat as soon as it could be done, and she was finally dragged clear of the said schooner, but not before the schooner had caught fire from the burning vessel; and that soon afterwards the ferry-boat sank in the river, the master of the Clara Clarita being wholly unable, by any means at his command, to save her.

3

Fourth. The libellants further allege that so soon as the James Watt had sunk, and it became impossible to render any more assistance to her or to those in charge of her who had employed the Clara Clarita, the master and crew of the last-named vessel immediately turned their attention to the schooner Clara, which was then burning fiercely from her foremast forward to and including her bowsprit and all her head sails; that the Clara Clarita was immediately brought alongside of said schooner, and the officers and crew of said schooner having already abandoned her, a man was sent aboard of her from the Clara Clarita, and a line made fast to her, and hose was immediately passed on board and two or more powerful streams of water were brought to bear upon the flames, and such exertions were used by the master and crew of the Clara Clarita, and such use made of her apparatus, that after three or four hours of constant exertion, during which both the said Clara Clarita and her officers and crew were exposed to great danger and hardship, the flames were subdued and the said schooner was preserved from entire destruction, and restored with comparatively trifling damage to her master and owners.

4

And the libellants allege that, by reason of the facts above set forth,

they became reasonably entitled to a large salvage compensation, the said schooner being of the value of twenty thousand dollars, as the libellants are informed and believe.

Fifth. And the libellants further allege that said schooner Clara is now within the southern district of New York, and that all and singular the premises are true and within the admiralty and maritime jurisdiction of this court.

Wherefore, the libellants pray that process in due form may issue against the aforesaid schooner Clara, her tackle, apparel, and furniture, and that all persons claiming any interest therein may be cited to appear and answer upon oath touching all and singular the matters aforesaid, and that a reasonable and proper salvage compensation may be awarded to the libellants, and that the said schooner, her tackle, apparel, and furniture, may be condemned and sold to pay the same, with costs and charges, and that the libellants may have such other and further relief in the premises as they may be entitled to.

NEW YORK HARBOR PROTECTION COMPANY,
By THEODORE SHARTS, *Secretary.*

Sworn before me this 30th day of August, 1870.
GEORGE DE FORREST LORD, *Proctor for Libellants.*

UNITED STATES OF AMERICA,
Southern District of New York:

Theodore Sharts, being duly sworn, saith that he is the
5 secretary of the New York Harbor Protection Company, that he has read the foregoing libel by him subscribed, and that he believes the statements therein to be true.

NEW YORK HARBOR PROTECTION COMPANY,
By THEODORE SHARTS, *Secretary.*

Sworn to before me this 30th day of August, 1870.
GEORGE F. BETTS,
U. S. Commissioner.

(Indorsed:) Volume 23, 409. United States district court. The New York Harbor Protection Company vs. The Schooner Clara, her tackle, etc. Libel. George De Forrest, attorney, No 45 Exchange place, New York. Filed August 30th, 1870.

District court of the United States for the southern district of New York.

Stipulation for libellants' costs, entered into pursuant to the rules and practice of this court.—Filed the 30th day of August, 1870.

Whereas a libel was filed in this court on the thirtieth day of August, in the year of our Lord one thousand eight hundred and seventy, by the New York Harbor Protection Company, against the schooner Clara, her tackle, etc., for the reasons and causes in the said libel mentioned, and praying that said schooner, etc., may be condemned and sold to pay the demands of libellant; and the said libellants, and Henry L. Wait and James M. Riblet, sureties, parties hereto, hereby consenting and agreeing, that, in case of default or contumacy on the part of the libellants or their sureties, execution may issue against their goods, chattels, and lands for the sum of two hundred and fifty dollars:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is, bound in the sum of two hundred and fifty dollars, conditioned that the libellants above named shall appear and an-
6 swer to the cause and to interrogatories, and shall pay all such

costs as shall be awarded against them by this court, or, in case of appeal, by the appellate court.

THE NEW YORK HARBOR PROTECTION COMPANY,
By THEODORE SHARTS, *Secretary.*
HENRY L. WAIT.
JAMES M. RIBLET.

Taken and acknowledged this 30th day of August, 1870, before me.
GEORGE F. BETTS,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Henry L. Wait and James M. Riblet, parties to the above stipulation, being duly sworn, each doth depose and say, that he resides in the southern district of New York, and that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

HENRY L. WAIT.
JAMES M. RIBLET.

Sworn to this 30th day of August, 1870, before me.
GEORGE F. BETTS,
U. S. Commissioner.

Recorded the 30th day of August, 1870.
Clerk.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

[L. S.] The President of the United States of America to the marshal of the southern district of New York, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the thirtieth day of August, in the year of our Lord one thousand eight hundred and seventy, by the New York Harbor Protection Company, against the schooner Clara, her tackle, etc., (salvage,) for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner or vessel, her tackle, etc., may be cited, in general and special, to answer the premises, and, all proceedings being had, that the said schooner or vessel, her tackle, etc., may, for causes in the said libel
7 mentioned, be condemned and sold to pay the demands of the libellants:

You are, therefore, hereby commanded to attach the said schooner or vessel, her tackle, etc., and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the 20th day of September, 1870, at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the honorable Samuel Blatchford, judge of the said court, at the city of New York, in the southern district of New York, this thirtieth day of August, in the year of our Lord one thousand eight hundred and seventy, and of our Independence the ninety-fifth.

GEORGE F. BETTS, *Clerk.*

GEORGE DE F. LORD, *Proctor for Libellants.*

(Indorsed:) Vol. 23, page 409. Southern district of New York. United States district court. The New York Harbor Protection Company vs. the schooner Clara, her tackle, etc. Monition returnable September 20th, 1870. George De F. Lord, proctor for libellant. Filed September 20th, 1870.

I hereby depute to execute the within process.
U. S. Marshal.

Dated 18—.

In obedience to the within monition, I attached the vessel therein described on the 30th day of August, 1870, and have not given due notice to all persons claiming the same that this court will, on the 20th day of September inst., (if that day should be a day of jurisdic-
8 tion, if not, on the next day of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same. Said vessel, having been bonded, has been discharged from custody.

GEORGE H. SHARPE,
U. S. Marshal.

Dated September 20, 1870.

At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Saturday, the 10th day of September, in the year of our Lord one thousand eight hundred and seventy:

Present, the honorable Samuel Blatchford, district judge.

THE SCHOONER CLARA
asm.
NEW YORK HARBOR PROTECTION COMPANY.

And now, Lemuel H. Hopkins, an owner of the schooner Clara, intervening for the interest of himself et al. in the said schooner, appears before the honorable court, and makes claim to the said schooner, etc., as the same are attached by the marshal, under process of this court, at the instance of the New York Harbor Protection Company; and the said Lemuel H. Hopkins avers that he was in possession of the said schooner at the time of the attachment thereof, and that the persons above named are true and bona-fide owners of the said schooner, and that no other person is the owner thereof; wherefore he prays to defend accordingly.

LEMUEL H. HOPKINS.

Sworn to and subscribed this 10th day of September, A. D. 1870, before me.

JOHN A. OSBORN,
U. S. Commissioner.

OWEN, NASH & GRAY, *Proctors for Claimant.*

9 (Indorsed:) Volume 23, No. 409. United States district court for the southern district of New York. Schooner Clara, her tackle, asm. The New York Harbor Protection Company. Owen, Nash & Gray, proctors for claimant. Claim of owner. Filed the 10th day of September, 1870.

[Respondent's costs.]

District court of the United States for the southern district of New York.

Stipulation entered into pursuant to the rules and practice of this court.—Filed the 10th day of September, 1870.

Whereas a libel was filed in this court on the 30th day of August, in the year of our Lord one thousand eight hundred and seventy, by the New York Harbor Protection Company, against the schooner Clara, her tackle, etc., for the reasons and causes in the said libel mentioned, and praying that schooner be condemned, and the parties hereto hereby consenting; and that in case of default or contumacy on the part of the client or his sureties execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands; and whereas, also, a claim has been filed in said cause by Lemuel H. Hopkins: Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is hereby, bound in the sum of two hundred and fifty dollars, conditioned that the clm't above named shall pay all costs and expenses which shall be awarded against by the final decree of this court or upon an appeal by the appellate court.

L. H. HOPKINS.
S. S. WYCKOFF.
JOHN SMITH.

Taken and acknowledged this 10th day of September, 1870, before me.
JOHN A. OSBORN,
U. S. Commissioner.

10 SOUTHERN DISTRICT OF NEW YORK, *ss:*

S. S. Wyckoff and John Smith, parties to the above stipulation, being duly sworn, doth depose and say, that they reside in the city of New York; that they are worth the sum of five hundred dollars, over and above all their just debts and liabilities.

S. S. WYCKOFF.
JOHN SMITH.

Sworn to this 10th day of September, 1870, before me.
JOHN A. OSBORN,
U. S. Commissioner.

Recorded the day of 187 .
Clerk.

District court of the United States for the southern district of New York—in admiralty.

Stipulation for value, entered into pursuant to the rules and practice of this court.—Filed the 10th day of September, 1870.

Whereas a libel was filed on the 30th day of August, in the year of our Lord one thousand eight hundred and seventy, by the New York Harbor Protection Company, against the schooner Clara, her tackle, etc., for the reasons and causes in the said libel mentioned; and whereas the said schooner is now in the custody of the marshal, under the process issued in pursuance of the prayer of said libel; and whereas the proctor for libellants has consented that said vessel be discharged from custody on the claimants filing due claim thereto and executing stipulations for costs and value, the latter in the sum of ten thousand dollars, as appears from said consent now on file in said court; and the parties hereto hereby consenting and agreeing that, in case of default or contumacy on the part of the clm'ts or their sureties, execution for the above amount may issue against their goods, chattles, and lands:

11 Now, therefore, the condition of this stipulation is such, that if the stipulators undersigned shall at any time, upon the interlocutory or final order or decree of the said district court, or of any appellate court to which the above-named suit may proceed, and upon notice of such order or decree, to Owen, Nash & Gray, esqs., proctors for the claimants of said schooner, abide by and pay the money awarded by the final decree rendered by the court, or the appellate court if any appeal intervene, then this stipulation to be void; otherwise to remain in full force and virtue.

L. H. HOPKINS.
S. S. WYCKOFF.
JOHN SMITH.

Taken and acknowledged this 10th day of September, 1870, before me.
JOHN A. OSBORN,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

S. S. Wyckoff and John Smith, parties to the above stipulation, being duly sworn, depose and say, that they reside in the city of New York; that they are worth the sum of twenty thousand dollars, over and above all their just debts and liabilities.

S. S. WYCKOFF.
JOHN SMITH.

Sworn to this 10th day of September, 1870, before me.
JOHN A. OSBORN,
U. S. Commissioner.

Recorded this day of , 187 .
Approved , 187 .

(Indorsed:) 23–409. Schooner Clara.

To the honorable Samuel Blatchford, judge of the district court of the United States for the southern district of New York:

The answer of Augustus M. Cox, Lemuel H. Hopkins, Silas C. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick , Sarah J. Fort, and G. Kohn, claimants of the schooner Clara, her tackle, etc., to the libel and complaint of the New York Harbor Protection
12 Company against the said schooner and against all persons intervening for their interest therein, in a cause of salvage, civil and maritime, alleges as follows:

First. The claimants admit that the libellants are a body corporate, and authorized to assist vessels in distress and to tow vessels from place to place.

Second. They have no knowledge or information respecting the several matters alleged in the second article, and therefore do not admit the same, but leave the libellants to make such proof thereof as they may be advised.

Third. They have heard and believe, and they accordingly admit, the several allegations contained in the third article, except as hereinafter denied. They deny that the steamboat Clara Clarita was well, sufficiently, or properly equipped and supplied for towing the burning ferry-boat James Watt from the slip where she lay to any other place in or about the harbor; that it was gross carelessness and negligence on the part of the libellants, their servants and agents, to attempt to tow the said burning ferry-boat, with the wind and tide as they were, by a hempen hawser, which was liable at any moment to be destroyed, as it was in fact, by the flames which enveloped the boat; that the libellants

had the sole care and management of the said burning boat; that when they undertook and agreed to haul the said burning ferry-boat from her slip around upon the Hoboken Flats and commenced that service, no person remained on board of the ferry-boat who was or had been previously connected therewith, or who had any power or control over her; and she was, in fact, under the exclusive direction and control of the libellants, their servants and agents. They insist that, inasmuch as the libellants voluntarily undertook to tow the burning ferry-boat, they are responsible for all the consequences, and that they became and were and are liable to the claimants for towing her against, and for causing her to get foul of and to set on fire, the schooner Clara, which was then lawfully and properly lying at anchor in the North River, off the foot of Thirtieth street, and not at the place alleged in the libel. They deny

13 that the burning ferry-boat drifted, without any fault or negligence on the part of the master and crew of the steamboat, under the impulse of the wind and tide, against and upon the schooner Clara; but, on the contrary, they aver that the said burning ferry-boat had been previously and improperly towed by the libellants into dangerous proximity with the schooner Clara; that she was in fact under tow of the steamboat, being at the time attached thereto by a hawser when she collided against the schooner Clara and set her on fire. They also say that the burning ferry-boat was wrongfully suffered and allowed to remain foul of the schooner.

Fourth. They admit and say that after the said steamboat had dragged the burning ferry-boat clear of the schooner, without stopping to extinguish the fire on the schooner, she proceeded along with the burning ferry-boat in tow until the latter sunk, after which she returned to and rendered assistance in saving the schooner; but they deny that the master and crew of the schooner had abandoned, or did at any time abandon, her; on the contrary, they remained and did all they could to extinguish the fire and to save the schooner from total destruction. They deny the other allegations of the third article not herein admitted or denied.

Fifth. They deny that under the circumstances the libellants are entitled to salvage, or to any compensation by way of salvage, or otherwise, for the services which were rendered in extinguishing the fire on the schooner Clara and saving her. They further say that the Clara would not have been set on fire by the burning ferry-boat if the libellants had not voluntarily agreed and attempted to tow the burning boat, nor if, in doing that act, they had exercised due and proper care; and they insist that the schooner was run into and set on fire by the carelessness, negligence, and inattention of those in charge of the steamboat, and from no fault or neglect of duty on the part of the schooner. They deny that the schooner was set on fire by any accident, but by the sole and culpable fault of those navigating and having charge of the steamboat in towing the burning ferry-boat. They deny that the schooner was of the value of twenty thousand dollars.

14 Sixth. That all and singular the allegations herein contained are true; in verification whereof, if denied, the claimants crave leave to refer to the depositions and proofs to be exhibited herein.

Wherefore these claimants pray that this honorable court will be pleased to pronounce against the libel and to condemn the libellants in costs.

L. H. HOPKINS.

Sworn to before me this 4th day of October, 1870.

EDWARD L. OWEN, *U. S. Commissioner.*

OWEN, NASH & GRAY, *Proctors for Claimants.*

E. H. OWEN, *Advocate.*

(Indorsed:) United States district court. The schooner Clara, her tackle, etc., ads. The New York Harbor Protection Company. Answer. Owen, Nash & Gray, proctors for claimants. 23,409. Filed October 8th, 1870.

United States district court.

THE NEW YORK HARBOR PROTECTION Company
vs.
THE AMERICAN SCHOONER CLARA.

I hereby consent that C. Van Santvoord be substituted in my place as proctor for the libellants herein.

GEORGE DE FORREST LORD,
Proctor for Libellant.

Dated October 10, 1871.

At a stated term of the district court of the United States of America for the southern district of New York, held at the court-rooms in the city of New York, on Wednesday, the eleventh day of October, in the year of our Lord one thousand eight hundred and seventy-one:

Present, honorable Samuel Blatchford, district judge.

THE NEW YORK HARBOR PROTECTION Company
vs.
THE AMERICAN SCHOONER CLARA.

On reading and filing the consent of George De Forrest Lord, esq., to the substitution of Mr. C. Van Santvoord, as proctor for the libellants in this cause, it is ordered that said C. Van Santvoord be, and he is hereby, substituted in the place of said George De Forrest Lord, as proctor for said libellants.

SAMUEL BLATCHFORD.

(Indorsed:) 23–409. United States district court, southern district of New York. The New York Harbor Protection Company vs. The American schooner called the Clara, etc. Consent of George De Forrest Lord, esq., for substitution in his place, as proctor for the libellants, of C. Van Santvoord, and order for substitution. C. Van Santvoord, proctor for libellants. Filed October 11th, 1871.

United States district court. Before Hon. S. Blatchford. In admiralty.

THE NEW YORK HARBOR PROTECTION Company
vs.
THE SCHOONER CLARA, HER TACKLE, ETC.

AUGUSTUS M. COX ET AL.
vs.
THE STEAM-TUG CLARA CLARITA, ETC.

NEW YORK, *October* 24, 1871.

The above cause being called, for the libellant, the New York Harbor Protection Company, and the claimant, the steam-tug Clara Clarita, appears Mr. Van Santvoord.

For the libellant, Augustus M. Cox et als., and the claimant of the schooner Clara, appears Mr. Owen.

Mr. Van Santvoord reads the libel of the New York Harbor Protection Company.

Mr. Owen, jr., reads the answer of the claimants.

Mr. Owen, jr., also reads the libel of Augustus M. Cox et al.

17 Mr. Van Santvoord reads the answer of the New York Harbor Protection Co.

WILLIAM T. FRANCIS, a witness called on behalf of the New York Harbor Protection Company, being duly sworn, testified:

By Mr. VAN SANTVOORD:

Q. Were you master of the Clara Clarita in August, 1870?

A. I was.

Q. What was the business of that boat?

A. Towing and putting out fires.

Q. Was she fitted up with apparatus to put out fires?

A. Yes, sir; two large pumps and eight hundred feet of hose.

Q. Those pumps worked how?

A. By steam.

Q. Had she hawsers for towing on board?

A. Yes, sir.

Q. What was the size of those hawsers?

A. We had one seven inches and we had three short hawsers of five inches or four and a half.

Q. What material were they made of?

A. Manila.

Q. Are those hawsers in use on tug-boats in the harbor of New York Manila hawsers?

A. Yes, sir.

Q. Was she kept with her fires banked and ready to move?

A. Yes, sir; the fire was always banked and ready at any time.

Q. Where was her berth?

A. On the north side of Canal street dock, Pier 42.

Q. That is the pier of the Pacific Mail Steamship Company?

A. Yes, sir.

Q. Was she at that time with fires banked, on the evening of August 1st, 1870?

A. She was.

Q. What crew had she on board?

18 A. Six men, all told.

Q. Who were they?

A. Myself, a wheelsman, one fireman, an engineer, and two deck-hands.

Q. What was the wheelsman's name?

A. John Mason. Edward Palmer was the engineer, William Cullen was one deck-hand, Patrick Gannon was another, and the fireman was Levi Anson.

Q. That was the whole force?

A. That was the whole crew.

Q. Were these men all on board when you were at the dock at Canal street?

A. Yes, sir.

Q. What first called your attention to the fact of there being a fire at this slip at Hoboken?

A. I was on the deck, and the night-watchman said there was a fire over in Jersey. He was on the end of the dock, and he came to let me know. I went on the dock and looked myself.

Q. Was this watchman attached to your boat?

A. No, sir; he was attached to the Pacific Mail Steamship Company.

Q. He first called your attention to what?

A. To the smoke over in Jersey.

Q. Did you take measures to go there?

A. We got ready as soon as we could. In probably five or ten minutes we went over.

Q. To where?

A. To the Hoboken ferry, in Jersey.

Q. Did you find that boat was on fire there?

A. We saw smoke, but we could not tell where the fire was. When we landed at the dock I sent the wheelsman to see where it was, and he found out and we went to it.

Q. He found that it was the James Watt?

A. Yes, sir.

Q. Where was she lying?

A. In the slip at Hoboken ferry.

Q. At that time was there any sign of fire that you saw?

19 A. No, sir; I could not see anything but smoke when we went over.

Q. You saw a smoke coming up?

A. Yes, sir; it was coming up in the gangway.

Q. Through an opening in the deck?

A. Yes, sir.

Q. No flames at that time?

A. Not that I could see.

Q. Did you get any directions from persons having charge of the ferry-boat?

A. Yes, sir.

Q. Who?

A. Mr. Chase and a gentleman I took to be the chief engineer of the fire department.

Q. Mr. Chase is the superintendent of the ferry company?

A. Yes, sir.

Q. Where was Chase at that time?

A. He was on the York end of the boat.

Q. That is, the New York end of the ferry-boat?

A. Yes, sir.

Q. With him there was a man you took to be the chief engineer of the Hoboken fire department?

A. Yes, sir.

Q. Were there other people there?

A. There were other people there.

Q. On the ferry-boat?

A. On the ferry-boat.

Q. Did they make any inquiry of you?

A. They asked me if I had hose and pump all ready, and I said I had; they said to pass them aboard, and I did so.

Q. They directed you to pass them aboard?

A. Yes, sir.

Q. Before you passed the hose aboard what did you do with your boat—where did you place her?

A. I left my boat and went on the end of the ferry-boat and got a line on her.

Q. The outer end?

A. Yes, sir.

Q. What part of the outer end?

20 A. I could not tell whether it was the starboard or port.

Q. Calling the outward end the bow?

A. The outward end would be on the starboard side.

Q. What was it you attached to on the ferry-boat?

A. An iron cleat.

Q. (By the court.) You fastened your hawser to an iron cleat?

A. Yes, sir.

Q. On what part of your boat was this hawser fastened?

A. It was in my bow-chock, fast to my forward bitts.

Q. After you had attached your boat by this hawser to the ferry-boat, then you passed the hose on board the ferry-boat?

A. Yes, sir.

Q. Who took the hose aboard?

A. My men partly; they all helped—my men and those that were on the ferry-boat.

Q. Did Mr. Mason have anything to do with it?

A. Yes, sir.

Q. After the hose was passed aboard, did you next throw water down the hold?

A. Yes, sir.

(Mr. Owen objects to the course of examination as leading.)

Q. How many streams did you send aboard?

A. Two.

Q. Through how many lengths of hose?

A. I cannot tell how many lengths. We had two streams—we might have had fifty lengths of hose.

Q. How many hose—how many nozzles?

A. Two.

Q. Two nozzles connected with the hose?

A. Yes, sir.

Q. Did you continue to work the pumps then and throw water through the hose?

A. We worked the pumps until we found——

Q. Under whose directions?

A. Under the directions of the superintendent and this chief engineer, as I took him to be.

21 Q. How long did you continue this?

A. I cannot say exactly whether it was an hour or two hours.

Q. Where were you at the time of this——

A. I was on the ferry-boat deck and on board of my own boat, backward and forward.

Q. Where was this fire on the ferry-boat?

A. It appeared to be down in the hold, under the deck.

Q. From where you were could you see the progress of the flames, whether it was being extinguished?

A. No, sir; I could not.

Q. You know nothing of that except from report?

A. From report.

Q. Do you know of any proposition to scuttle the boat in the slip?

A. I heard somebody say something about scuttling, but they could not get under the guards to do it.

Q. Did you see the situation to know whether it was possible?
A. I don't think it was.
Q. Why?
A. It was too deep in the water to get under her.
Q. Could not be reached?
A. No, sir.
Q. Do you know at the time your hose was throwing water on board that vessel water was being thrown there through hose from other engines and other vessels?
A. I knew there must have been water coming from somewhere, but I could not tell from where.
Q. You don't know about that?
A. No, sir; it was on the other end of the boat.
Q. Then what was the next order given to you?
A. The next order was to pull the boat out of the slip.
Q. By whom was that given?
A. That was given by the same parties.
Q. The superintendent of the ferry company and the chief engineer of the fire department?
A. One or the other; I cannot say for certain which one.
22 Q. Upon that what did you do?
A. We shifted out the line from aboard of us to aft, to get my head clear of the rack, and then pulled her out. I changed the hawser from my boat's bow to my boat's stern.
Q. Then did you back?
A. Yes, sir; so as to clear my head of the rack.
Q. How was the wind?
A. Southwest.
Q. How was the tide?
A. Flood-tide.
Q. In pulling her out what course did you take?
A. I put the hawser in the starboard chock to cant her down the river, to clear the vessels lying above her on the river.
Q. What was that to do?
A. So that my boat would cant down the river quick.

By the court:

Q. Do you mean that you went with your bow out?
A. Yes, sir.
Q. The hawser was on your starboard side?
A. Yes, sir.
Q. Running along the starboard from aft the forward chock?
A. No, sir; about one-third of the way from aft.

By Mr. Van Santvoord, resuming:

Q. The other end of the hawser was on the ferry-boat?
A. The other end was fast aboard the ferry-boat.
Q. What course did you take in going out of the slip?
A. I made my calculation to pull her far enough to clear the vessels above. I could not tell exactly the course. It might have been south east—it was more to the southward, probably.
Q. The object of that, you say, was to keep her clear?
A. To keep her clear of the vessels that laid at anchor. There were two or three barks and a lot of vessels that just laid above the ferry-slip.
23 Q. On which side?

A. On the Hoboken side, pretty well in. I wanted to pull her down the river to make sure to get clear of them.

Q. What next happened in the progress as you were hauling your course down the river in your efforts to clear these vessels?

A. The ferry-boat burst out in flames fore and aft, and that burned the hawser.

Q. Then what became of the ferry-boat?

A. The ferry-boat drifted afoul of a bark before we could get hold of her again.

Q. One of these barks you have mentioned on the Hoboken side of the river?

A. Yes, sir.

Q. Did she set fire to that?

A. She set fire to the bark, but we got a line to her again and pulled her clear.

Q. How was that line taken to her again?

A. I think we went up to her ourselves and put a ladder over her bow, and one of the firemen, or somebody who did not belong to our boat, went aboard and made the line fast. We went bow on to the ferry-boat.

Q. After the line was made fast what then?

A. We started her again, and pulled her down to the southward and eastward, to clear the bark.

Q. Was that necessary?

A. Yes, sir.

Q. Why?

A. The tide was running so strong that we could not pull her any other way to get her clear. We had to pull her down the river and pull her across the tide.

Q. When you dragged this ferry-boat out of the slip, did any person in charge of the fire department or the ferry-boat stay on board?

A. They all came on board of the boat who were on the ferry-boat.

Q. The superintendent of the ferry company and these other men?

A. Yes, sir.

24 Q. How long did they continue on board?

A. They continued on board until after the ferry-boat sunk.

Q. After you had pulled the ferry-boat clear of this bark and got the line to her, what course did you take?

A. I started to turn round and go up the river to tow her on to the flats. I went up the river and was turning her around to cross the schooner's bow.

Q. You started to turn around to go up the river. What happened then?

A. We parted. The hawser burned off again.

Q. How were you standing at the time?

A. Up the river.

Q. Did you get another line to her?

A. Yes, sir; we took a hawser to her then.

Q. How was it taken?

A. By a small boat belonging to the ferry company.

Q. A life-boat?

A. Yes, sir; a small life-boat.

Q. By whose men?

A. By either the ferry company's or the firemen; I cannot say which.

Q. That was the third hawser taken to her?

A. That was the third time.

Q. What was your course then?

A. I was turning then to go in toward Jersey, on the flats.

Q. Did anything happen to that hawser?

A. Yes, sir; it either pulled out or burned, I don't know which. We did not pull the hawser all the way in to see.

Q. Where was the ferry-boat in reference to this schooner?

A. When I saw the ferry-boat we were 200 or 300 yards from the schooner before I saw her.

Q. The schooner was as far off as that when the hawser parted?

A. Yes, sir.

Q. In what direction from the schooner?

A. The schooner was about, I should think, northeast, or about
25 north, when we parted the hawser, or when we got adrift from the ferry-boat.

Q. You were as far off as 200 or 300 yards?

A. We might have been that, or less, or probably more, for all I know.

Q. After this line parted what became of the ferry-boat?

A. The ferry-boat went on her own hook, getting afoul of the schooner before we could get the hawser to her.

Q. Do you mean she drifted?

A. Yes, sir; drifted by the wind and tide.

Q. By that time you say the ferry-boat was ablaze?

A. Yes, sir.

Q. Did it make it light?

A. Yes, sir; made a big light.

Q. How long a time was she in drifting up to the schooner?

A. It might have been five or ten minutes from the time we parted the hawser until she was afoul of the schooner.

Q. Was it five minutes?

A. Yes, sir, all of that.

Q. How was the schooner tailing?

A. She was tailing up the river with the flood-tide. The head was down the river.

Q. Apparently at anchor?

A. Yes, sir.

Q. Can you describe how the ferry-boat came in contact with the schooner?

A. The ferry-boat was going across the schooner's bow.

By the court:

Q. Going across the schooner's bow on which side?

A. From the schooner's port to the schooner's starboard. Her jib-boom catched something—the king-post on the ferry-boat—the stern of the boat, I should call it—the New York end. It caught some of the rigging. That caused her to swing around on the schooner's starboard bow. Before she got afoul of the schooner I had hallooed to the schooner to put her wheel to starboard and pay out their chain.

26 Q. Did she swing square across?

A. She did afterwards, right square across the schooner's bow.

Q. Did she set fire to the schooner?

A. Yes, sir.

Q. What part of her?

A. Her bowsprit and jib-boom and the bow of the schooner and fore-mast.

Q. While she was foul of the schooner did you get a line to her?

A. We got a line to her by a boat some way, and I pulled her away from the schooner, and pulling the schooner, too, in the first place.

Q. In what direction did you pull her?

A. I pulled her to the southwest.

Q. Toward the New York shore?

A. Toward the Hoboken shore. I pulled her off that way to clear her of the schooner. There was no other way of pulling her.

Q. And get her clear?

A. Yes, sir.

Q. What did you do with the ferry-boat?

A. She sunk.

Q. How far from the schooner?

A. It may have been 400 or 500 feet, or it may have been more. I cannot say for certain.

Q. What did you do after that?

A. I hauled in all the hawser I could and cut off the balance, and went to the schooner.

Q. To which side of the schooner?

A. The starboard side.

Q. Which way were you heading?

A. Down the river.

Q. What did you do?

A. I sent one of my men aboard of her, who grabbed by their line and made it fast, and a man went aboard with a hose at the same time.

Q. What did you do with the hose there?

A. We played on the fire. We started the pump.

27 Q. How long were you playing on the fire?

A. I should think it was three or four hours.

Q. Had you any success there?

A. We put out the fire, and stayed until the captain was satisfied that the fire was out—and the mate also.

Q. What was the extent of the injury to her by the fire—what was burnt?

A. There was a good deal of work burned inside of the hold of the vessel, and the sails and bowsprit and jib-boom and foremast, and a good deal of her deck.

Q. Was anybody on that schooner's deck when you were near enough to see whether anybody was there?

A. I did not see anybody until we got alongside of the schooner.

Q. Until after the ferry-boat sunk?

A. Until after the ferry-boat sunk.

Q. Had a boat been to you before that?

A. Yes, sir; a boat had been to me with the captain of the schooner and with some other men, who wanted an ax to scuttle her.

By the court:

Q. When was this?

A. This was at the same time the ferry-boat was sinking.

Q. Before you got back to the schooner?

A. Before we went to the schooner. In the first place, the captain was in the boat and came to see us when we were hauling the hawser in.

By Mr. Van Santvoord, resuming:

Q. That was after she had caught fire?

A. Yes, sir; after the schooner caught fire.

Q. He came to you and wanted an axe to scuttle the schooner?
A. Yes, sir.
Q. What next?
A. I told him to hold on, not to be scared; that we would take care of the schooner.
28 Q. When you came back to the schooner to put out the fire, was anybody on board the schooner?
A. Not that I could see.
Q. Did you see anybody afterward?
A. Yes, sir.
Q. When was that?
A. It was some time afterward; I cannot tell how long.
Q. How long have you been a seaman?
A. I have followed the water since I was fifteen years of age.
Q. Upon what kind of craft?
A. Pretty much all kinds.
Q. What do you mean, sailing-vessels?
A. Sailing-vessels and steamboats.
Q. Schooners and sloops?
A. I never have been on sloops. The smallest I ever was on was a schooner, and from that up to ships.
Q. Was there any way in which this Clara, as she lay there, if she had had anybody on deck, could have avoided this ferry-boat as she was floating adrift?
A. Yes, sir; all they had to do was to slip the chain along, and put the wheel hard astarboard. Ten feet and she would have cleared her.
Q. How long would it have taken to slip the chain?
A. Not five minutes, if anybody was on deck ready.
Q. Would it have taken as long as that?
A. It would depend how hard it would have been to unshackle her.
Q. Was there time enough from the time this hawser of yours burned and parted, and she began to drift, before the ferry-boat was afoul of the schooner?
A. There was plenty to give her chain. I don't know if there was plenty of time to unshackle. There was plenty of time to give her ten or fifteen fathoms of chain.

Cross-examination, by Mr. Owen:

Q. How long had you been in command of this tug-boat at that time?
29 A. Very near five years.
Q. Was she always engaged in that business?
A. That was from the time the Pacific Mail Steamship Company had her there for the purpose of using her for fires.
Q. Had you ever towed a burning boat before in the harbor of New York?
A. I towed a ship in from sea that was afire.
Q. In the harbor of New York?
A. Yes, sir.
Q. Where did you drop her?
A. At quarantine.
Q. You never towed one before around the harbor of New York?
A. Not one on fire.
Q. (By the court.) You say she belonged to the Pacific Mail Steamship Company?

A. She did at the first commencement, before the New York Harbor Protection Company bought her.

Q. When did they buy her?

A. They delivered her on the second day of June, 1870.

Q. The same year of the fire?

A. Yes, sir.

Q. The fire occurred on what day?

A. The first of August, in the night.

Q. How large was this boat?

A. She is one hundred and twenty-five tons.

Q. What is the power of her engines?

A. She has got two twenty-two-inch cylinders, square.

Q. Have you stated all the wrecking apparatus you had on board of her, in answer to the question asked you?

A. For which purpose?

Q. For the purpose of assisting in extinguishing fires, and in wrecking vessels.

A. I have stated all that was required there.

Q. Have you stated all that you had on board; had you anything else on board besides steam-pumps and hawsers?

A. Hose.

Q. And hawsers?

30 A. We had axes, and all such things as that.

Q. Any anchors?

A. Yes, sir; three of them.

Q. Did you have any chains?

A. Yes, sir.

Q. Did you have any chain cables?

A. Chains for the anchors.

Q. How long were your chains?

A. They may be fifty or seventy-five fathoms.

Q. What was at the end of the chain—hooks?

A. They went with shackles.

Q. How came you to come across; was it a voluntary movement on your part?

A. It was my business; it was what the boat was for.

Q. You had no interest in the ferry-boat?

A. I had no interest in anything except the boat.

Q. Did your company have any interest in the ferry-boat?

A. No, sir; not that I know of.

Q. Who was the pilot of your boat?

A. John Mason.

Q. Then you had an engineer?

A. Yes, sir.

Q. How many other hands?

A. A fireman and two deck-hands.

Q. Where is that engine—amidships, or where?

A. It is a little on the aft end of the boat, but nearly amidships.

Q. Is she a side-wheel boat?

A. No, sir; a propeller.

Q. How high was her guards around?

A. Her guards are very small, just a fender-piece around, about four inches wide.

Q. Your chocks, by which you towed, were amidships?

A. Our bitts are amidships; our chocks are on the side.

Q. Who did you see, when you arrived across the river, on the burning ferry-boat?

A. I saw no one first; I saw five or six altogether.

Q. Where did you see them?

31 A. On the York end of the ferry-boat.

Q. That is, the outer end?

A. That is, the outer end from Jersey City.

Q. Did you tender your services to assist them?

A. I did, after being asked whether I was ready.

Q. Was there any agreement in regard to compensation?

A. No, sir.

Q. How did you expect to be paid?

A. That was not for me to look after; the owners of the boat did that.

Q. After you offered your services, who replied to you?

A. Either Mr. Chase or the chief engineer; I do not know but both of them.

Q. They expected your services?

A. Yes, sir.

Q. Where were you lying, with reference to the burning boat, at the time? Had you then run your bow upon her?

A. We run our bow on one end of the ferry-boat—the outer end.

Q. You were in that condition when you offered your services?

A. We were doing that and offering our services together.

Q. How deep was the ferry-boat at that time in the water?

A. Her guards were a little more than half way down in the water, a little after that.

Q. What was the cause of the water sinking her so?

A. The water was in the hold of the boat.

Q. That came in consequence of the fire?

A. Of the water that was played in the boat.

Q. At that time, then, was she lower than usual in the water? Had she begun to sink, in other words?

A. She had begun to fill with water. The water made the boat go down.

Q. The water that sunk her was water that you threw in by the pipes?

The Court. Not water that he threw in.

A. The water that had come in had settled her.

Q. How much do you think she had settled below her water-line?

32 A. I do not know; but she had settled so far that we could not get a boat under her guards.

Q. Did she settle forward or aft?

A. I guess she settled bodily down; I should judge so; I could not see the other end.

Q. After this you got out two pipes, two nozzles?

A. Two streams of water.

Q. How were they injected into the hold—by the force of the steam-pump?

A. By the steam-pump and the hose attached to the steam-pump.

Q. How large a stream did your hose throw?

A. We have four-inch hose and inch-and-a-half or two-inch nozzles.

Q. Was there any other pump playing upon her at the time, or any other hose?

A. Not that I could see; I knew there was water coming from somewhere, but I could not tell where it was.

Q. It didn't proceed from your end of the boat?

A. No, sir.
Q. You were at that time at the end of the ferry-boat?
A. I was at the York end of the boat.
Q. How long did you play upon the boat?
A. It might have been an hour, and it might have been an hour and a half.
Q. How much water had you thrown into her?
A. I do not know.
Q. I did not know but you knew the power of your pumps.
A. No, sir, I do not.
Q. How much had she sunk?
A. She sank a considerable ways down. It was pretty hard for any one who was there to tell just how far she had sunk down.
Q. Was there any flame or fire observable there then anywhere?
A. I could not see any fire until we pulled her out.

Q. Was there any consultation in regard to taking her out of
33 the slip or scuttling her or sinking her there, between you and any person?

A. No, sir, there was no consultation at any time.
Q. Was there any conversation?
A. Nothing more than it was said to take her out; that it would not be best to sink her in the slip.
Q. Who said that?
A. Either Mr. Chase or the chief engineer, and I think both.
Q. Who did they mention that to?
A. I think to me.
Q. The object of taking her out was to keep her from sinking at the dock?
A. The object was to prevent her from setting other vessels afire.
Q. The fire was not visible then?
A. It was visible a very few minutes afterwards.
Q. Then, when you concluded to remove her, you took her out, as I understand you, turned your stern toward her?
A. We backed off; we took the line off and changed it. I had to back on her to get my boat in position to do anything.
Q. You commenced to haul on her stern foremost?
A. No, sir, I didn't; I took my line from the ferry-boat to my stern; I backed on that to cant my head from the ferry-boat.
Q. How was your bow pointing when you were beginning to haul her out?
A. About south-southeast.
Q. How would that head?
A. About down right off Governor's Island, pretty near.
Q. Your stern was then toward her?
A. It was toward the ferry-boat.
Q. How long were you engaged in starting her out before you got her out in the stream?
A. It was a very few minutes from the time we started before we had her out.

Q. How long was the hawser by which you attempted to tow her?
34 A. It may have been fifteen or twenty fathoms.
Q. Don't you know?
A. Not exactly.
Q. What was the size of it?
A. Four and one-half inches—its bigness around.

Q. How far was it from where that ferry-boat lay in the slip to the Hoboken Flats where you desired to beach her?

A. It may be a mile—three-quarters of a mile; it may be over that for all I know.

Q. How many vessels lay above you or above the slip before you rounded the point to bring her on those flats?

A. There were four or five.

Q. Don't you know? If you do not, don't say so.

A. I do not know exactly—there was a half-dozen yachts lay there; I cannot say, three—five or ten. There were two barks; that I do know.

Q. How far had you got into the river before you straightened up to go toward the Hoboken Flats?

A. I got out pretty well into the river—probably into the middle of the river.

Q. What for?

A. So as to have room to turn the boat around.

Q. You were towing her with your head down stream?

A. You asked me how far in the river I was when I went to turn around.

Q. You first drew her off toward Governor's Island?

A. Yes, sir.

Q. Afterwards your way was in another direction. How far did you tow her down that way before you hauled round and undertook to tow her up to the flats?

A. We did not undertake to turn. The hawser burnt off.

Q. When you were towing down stream?

A. Yes, sir. We had not commenced to turn around in the river at all to go up the river.

By Mr. Van Santvoord:

Q. But when it burnt off the first time?

A. Yes, sir.

35 Q. What was abreast of you when your hawser burnt, on the New York shore?

A. We were abreast, I suppose, of Pier 46, a little above the Hoboken ferry, on the Hoboken side.

Q. Had you got very near the New York shore?

A. No, sir; we had not got near the New York shore; we were a very little ways from the end of the dock when it first burnt off.

Q. Had you any difficulty in approaching her the next time to make fast?

A. Yes, sir.

Q. What was the difficulty?

A. The difficulty was, it was pretty warm.

Q. Do you know who it was who next fastened the hawser the next time it was burnt off?

A. It was either the fireman or somebody made it fast.

Q. You gave the hawser?

A. Yes, sir.

Q. And told them to make it fast?

A. Yes, sir. I told them to make it fast at the best place they could.

Q. You do not know who made the hawser fast to the burning boat at that time?

A. No, sir.

Q. Where were you at that time?

A. On the upper deck of my boat.
Q. Where—in the pilot-house?
A. I could not be on the upper deck and in the pilot-house.
Q. Where was the fire chiefly when it broke out?
A. All over, on both ends and both sides.
Q. Where was your chain-cable at that time?
A. Of the anchors?
Q. The chains you had?
A. Down in the locker.
Q. Why did you not get one of them up?
A. The reason was that we could not handle them.
Q. Why?
36 A. There were not men enough to handle them, even if we had taken all that belonged to the ferry company; and another thing, even if we had put a chain there, if there had such a thing been as the chain being pulled out, how would we have got the chain there again?—would not the chain have been hot, or any iron cable?
Q. It would not have been so hot as to burn like the hawser?
A. I have seen chain pretty hot in running out of the hawse-pipe.
Q. Where were you when you came and made fast the second time?
A. I was on the upper deck of the boat.
Q. Where were you in the river?
A. When I made fast the second time the ferry-boat was under the bark's bow.
Q. You have not quite comprehended the question.
A. You asked me where I was when the ferry-boat parted by the hawser burning—she drifted under the bark's bow.
Q. Was she afoul of the bark when you made fast to her the second time?
A. Yes, sir.
R. Did you see that she was in danger of getting afoul of the bark when she got loose?
A. I had an idea that she would.
Q. Did you go to the bark and give them a notification of danger?
A. They didn't want any. I saw men there.
Q. Did you render that bark any assistance to get out of the way of the burning vessel?
A. No, sir.
Q. You let the burning vessel float on as usual, and didn't render any assistance to prevent them from getting burned?
A. No, sir; I pulled the ferry-boat clear of her.
Q. While she was afoul of that bark, this second hawser was made fast, and you pulled her off from that vessel?
A. Yes, sir.
Q. Whereabouts in the stream did the vessel lie?
37 A. Somewhere about the Hamburg steamer dock, a very little ways above the ferry.
Q. That is a considerable way below Canal street?
A. It was over to Hoboken.
Q. How far in reference to the width of the river—how far out into the river?
A. I could not say exactly; but she was pretty close—closer than the law allows in shore.
Q. How far does the law allow?
A. Three hundred yards it used to be when I knew about it.
Q. How wide is the river there?

A. About a mile, I should think; or it may be a little more.
Q. When you took hold of her again, how did you head your vessel to it?
A. Down the river.
Q. To haul her off from that vessel?
A. Yes, sir; the flood-tide set her up.
Q. How long did you haul her down the river?
A. Till I got her clear.
Q. What did you do then?
A. I turned around to go up the river.
Q. How far did you go up the river before she burned the hawser again?
A. We were turning around to go on the flats with her.
Q. How near were the flats?
A. We were probably two-thirds of the way from New York to Hoboken.
Q. Then the hawser burned off again; how did she drift then?
A. Afoul of the schooner.
Q. How did she drift?
A. She drifted up.
Q. How far were you at that time from the schooner?
A. It might have been 300 yards.
Q. Did you consider the schooner was then in danger?
A. I did not. I thought the ferry-boat was going ahead of the schooner—was going across her bow.
38 Q. Did you go forward to the ferry-boat and try to do anything to keep her from doing any damage?
A. Certainly, I tried to get my boat in position.
Q. Did you try to get the schooner out of the way?
A. No, sir; I sung out to the schooner.
Q. When did you discover for the first time that the burning boat would come in collision with the schooner?
A. It might have been five or ten minutes.
Q. How far were they off?
A. About three hundred yards.
Q. Which was the nearer, your boat or the ferry-boat?
A. The boat was a little nearer the schooner.
Q. You could have got there first if you had put on steam?
A. If we had a propeller-wheel on sideways, we could have got there first.
Q. You didn't go forward to go to her?
A. I did when I got there.
Q. You didn't go forward to get to her?
A. I went to her as soon as I could get there, and got her off, after she got afoul.
Q. I think you misunderstand me.
A. No, sir, I don't.
Q. I asked you if you went to the schooner—the Clara?
A. While the ferry-boat was afoul?
Q. Yes, sir.
A. No, sir; I went and took hold of the ferry boat, and pulled her away from the schooner.
Q. After this hawser was parted the second time, after you saw there was danger of the burning boat coming in collision with the schooner Clara, did you do anything toward saving the Clara before making fast again to the ferry-boat?

A. Nothing more than I halloed to pay away her chain and put her wheel hard a-starboard.

Q. How far were you from the burning boat at that time?

A. I might have been a hundred or a hundred and fifty feet.

39 Q. How far from the Clara?

A. I was a little further than that.

Q. How far had the burning boat drifted from the time she burned her hawser until that time?

A. She might have been five or ten minutes drifting. I was across the tide, and the boat was drifting across the tide. My boat was one hundred and twenty-five feet long, and it took some time to get my boat in position.

Q. After the hawser was burned did you shut off the steam?

A. Of course, we stopped and backed too.

Q. Why would you back if she was drifting ahead of you?

A. To get into position to get my boat there.

Q. How long did she lay afoul of the Clara before you got hold of her again?

A. She didn't lay but a little while; I could not say whether it was five minutes or ten minutes—less or more.

Q. What difficulty was there, when you saw her drifting up toward the Clara, in getting hold of the other end and pulling her back?

A. I should have to turn right around.

Q. What difficulty was there in anchoring the burning boat after you got into the stream?

A. I could not get there to anchor her.

Q. You could get there to make fast?

A. Very well; but I didn't know where her chains were, or her anchors were there, and I guess it would have been rather warm work to have anchored the ferry-boat.

Q. And it was warm work to tow a burning boat into another boat, and set her on fire. How far was it from where the Clara lay to where you took the ferry-boat aground?

A. We didn't take her aground at all; the ferry-boat took the bottom; that was the way she went.

Q. I mean that craft that you were hauling—the ferry-boat?

A. Yes, sir.

Q. You grounded her?

40 A. No, sir; she grounded herself.

Q. Would she have grounded if you had not hauled her out?

A. She would have grounded somewhere else.

Q. You didn't do anything for the schooner?

A. I told you what I did.

Q. You didn't do any thing else?

A. Yes, sir; put the schooner out.

Q. You didn't do anything until you got that good-for-nothing boat where she could take the bottom, did you?

A. I didn't until I cut the hawser.

Q. You could have taken hold of the Clara easily, and got her out of danger before the other boat?

A. No, sir.

Q. Why not?

A. I didn't have room to get there.

Q. The ferry-boat was not on all sides?

A. She was across her bow.

Q. She was not on her stern?

A. You don't usually get your vessels astern.

Q. You usually get vessels off any way you can when they are in danger?

(No answer.)

Redirect examination, by Mr. Van Santvoord:

Q. Whereabouts in the river was this Clara at that time?

A. I should think she was pretty near in the middle of the river, up about Thirtieth street.

Q. That was your idea at the time?

A. Yes, sir.

Q. Was your boat exposed to any danger when alongside of the Clara?

A. Yes, sir, I think she was; there was danger of us getting afire from the boat, and there was danger of their foremast and rigging falling down on us.

41 Q. After this boat parted this last hawser, and before the ferry-boat drifted up to the schooner, what were you doing?

A. I was trying to get my boat into position to get hold of her again.

Q. That was necessary to be done to get her around into position?

A. I did not turn around; I backed up and went ahead several times. It would save more time than to turn around.

Q. With all the dispatch you could use, you could not get a line on her until she was afoul of the schooner?

A. We got the line to her with a small boat.

Q. Was there anything else you could do to keep her off the schooner Clara?

A. No, sir; we did all that was possible to keep her clear.

Q. After you got her off from the Clara, then you attempted to tow the ferry-boat on the flats?

A. Yes, sir.

Q. That was what you was doing at the time the ferry-boat sunk?

A. Yes, sir.

Q. What sunk the ferry-boat?

A. The water that was in her.

Q. And the progress of the flames?

A. Yes, sir.

Recross-examination, by Mr. Owen:

Q. What was the reason you could not get up to that boat except by backing around?

A. I might have got to her any way, but I took the shortest way.

Q. You could have approached her any way?

A. If I had turned around it would have been as long again, probably.

Q. (By the court.) You had to approach her from the windward?

A. Yes, sir.

42 Q. And pretty strictly to the windward?

A. Yes, sir; I found it pretty warm on that upper deck all that time.

Q. Where were the men all that time?

A. They were on the after deck most of that time, attending to their business, and one was in the pilot-house.

Redirect by Mr. Van Santvoord:

Q. How soon did you get back to this burning vessel after the ferry-boat sank?

A. Just as soon as we could. We cut our hawser from the ferry-boat and went right away to the schooner.

Q. You didn't wait to haul the hawser in?

A. No, sir; we hauled in all we could, and we cut it on the aft rail with an axe.

Q. How did you say you were standing at the time of the last parting of the hawser, before the drifting of the ferry-boat on the schooner?

A. We were standing about southwest, going into the flats.

Q. Toward Hoboken Flats?

A. Yes, sir.

Q. Just above Castle Point?

A. Yes, sir.

Q. Then the ferry-boat was something nearer to this schooner than the tug-boat was?

A. Yes, sir; we were on the other side of the schooner; we were on the westward side of the schooner, across the schooner's bows, very near.

Q. But in reference to the north and south line from the schooner, where did the ferry-boat stand before your line parted the last time?

A. We were angling the river, heading southwest.

Q. The starboard side of the ferry-boat was toward the schooner?

A. The starboard side of the ferry-boat that was going ahead.

Q. Below the schooner, standing across when this line parted?

43 A. Yes, sir.

Q. And of that distance from each other—about three hundred yards?

A. Yes, sir.

Adjourned to Wednesday morning, at eleven o'clock a. m.

United States district court. Before Hon. S. Blatchford. In admiralty.

THE NEW YORK HARBOR PROTECTION COMPANY
vs.
THE SCHOONER CLARA, HER TACKLE, ETC.

AUGUSTUS M. COX ET AL.
vs.
THE STEAM-TUG CLARA CLARITA, ETC.

NEW YORK, *October* 27, 1871.

Trial resumed.

WILLIAM T. FRANCIS, a witness, being recalled on behalf of libellants, further testifies as follows:

By Mr. Van Santvoord:

Q. You stated that you desired to correct some statement as to the direction of the Clarita and the ferry-boat at the time the hawser lost hold of her for the third time?

A. Yes, sir; I said we were heading about southwest when we were going across the schooner's bow to the westward the third time the hawser parted. Instead of that we were heading to the northward of the west.

44 Q. (By the court.) When the hawser parted the third time, as you were coming across the schooner's bow?

A. Yes, sir.

Q. At the time the hawser parted the third time how did the schooner bear to the Clarita?

A. I should think about northeast.

Q. How did the schooner bear from the ferry-boat?

A. When the hawser parted, it might have been to the westward of northward, or it might have been westward.

Q. How far off?

A. I should think about three hundred yards.

By the court:

Q. What was?

A. The ferry-boat from the schooner.

Q. Do you mean three hundred yards between the ferry-boat and schooner?

A. Yes, sir.

By Mr. Van Santvoord, resuming:

Q. At the time that hawser parted the third time from the boat did you observe whether the ferry-boat had settled some in the water?

A. Yes, sir; I think she had.

Q. And was she enveloped in flames at the time?

A. Yes, sir, fore and aft.

Cross-examination, by Mr. Owen:

Q. You say that the schooner bore from the tug northeast; how many points, and from which bow?

A. She was off our starboard quarter, nearly.

Q. You had passed her line?

A. We had passed the schooner.

Q. And had the ferry-boat passed her bow?

A. No, sir; if she had passed her bow she would have been clear of her.

Q. What was the length of the hawser you were towing by?

A. It might have been 35, 40, or 50 fathoms; I cannot tell exactly; it might have been less than that.

45 Q. At the time when she bore northeast, you had still hold of the burning boat, had you not?

A. No, sir; when the hawser parted she went off.

Q. How did she bear from you when the hawser parted the last time?

A. I have just stated what it was.

Q. You had got so far to the northward that she bore off about your starboard quarter?

A. We had got to the northward and westward.

Q. Let me ask you here, did you use the same hawser each time?

A. No, sir; we used two different hawsers.

Q. When did you put the new hawser on?

A. The third time—the big one.

Q. Was that a heavier hawser than the others?

A. Yes, sir.

Q. Was it newer?

A. I don't think it was newer; it was a new hawser. They were all new.

Q. How much larger was it than the other?

A. One was 4½ inches and the other was seven.

Q. Did you have that hawser on board the tug at the time you first made fast on board the ship?

A. Yes, sir.
Q. Why did you use the new hawser?
A. Because it burned the others off, and it was the handiest and the longest.
Q. How near the ferry-boat did the hawser burn off?
A. That is more than I can say.
Q. (By the court:) You mean that by burning, the first one had got too short for you?
A. It was the handiest to get it out. After we had got the two out, I sent out the big hawser; it was a very limber rope.

DANIEL B. HALEY, a witness called on behalf of the New York Harbor Protection Company, being duly sworn, testifies:

46 By Mr. Van Santvoord:

Q. Were you mate of the schooner Clara at the time of the burning of this ferry-boat in August, 1870?
A. I was in that capacity.
Q. How long had you been in her service as mate at that time?
A. I joined her, I think, in July, about the 9th or 10th; I would not be positive.
Q. (By the court:) A month before?
A. About a month before.
Q. Before that, had you been a seaman?
A. Yes, sir.
Q. For how many years?
A. I commenced going to sea in 1835 or 1836.
Q. In what vessels or class of vessels?
A. Mostly in schooners—fore and aft vessels.
Q. Engaged in the coasting trade?
A. Most of the time.
Q. Schooners of the class of the Clara?
A. Smaller and larger—commonly called coasting-vessels.
Q. Where had that schooner come from at this time?
A. From Georgetown.
Q. Loaded with what?
A. With coal.
Q. Did she discharge her cargo?
A. Yes, sir.
Q. Where?
A. I believe they said at the foot of Thirty-second street. I believe that is what they call the depot there.
Q. After discharging it was she brought to anchor off in the stream?
A. Yes, sir.
Q. (By the court:) Was she empty?
A. Yes, sir.
Q. Before the ferry-boat was afoul of her there, was there any anchor watch set on the deck of the schooner?
A. No, sir.

Q. Where was the captain and crew at the time?
47 A. At the time the fire occured?
Q. At the time the vessel first got afoul before she was burning?
A. The captain and myself and the steward were in the cabin; I could not say what part of the ship the balance of the crew were in, but to the best of my knowledge and belief two were forward in the forecastle, and one forward in the amidships house.

Q. (By the court:) You and the cook and the captain were in the cabin?

A. Yes, sir.

Q. And the rest, so far as you know, were in the forecastle?

A. Yes, sir; so far as I know.

Q. Would you know if any anchor watch had been set on that vessel?

A. I presume I would; being mate of the vessel, I would be the one to order an anchor watch.

Q. You were the one to do it, if it had been done?

A. Yes, sir.

Q. Did you come out on deck?

A. I went out on deck as the steamer struck the schooner.

Q. What brought you out?

A. The noise of the crash under the bow—the jar.

Q. Did anybody else come out with you; where was the captain?

A. The captain went out right ahead of me.

Q. Did he come out before this crash on the bow?

A. I cannot say that he did, because I was very close to him; we went out as near together as we could get out, but he went out ahead.

Q. With what scope of chain was she anchored?

A. In working an anchor in the tide, I generally use from eighteen to twenty fathoms along in the night; I could not say whether there was more or less.

Q. At what chain was she anchored?

A. The port chain.

Q. Was that the working chain?

A. Yes, sir.

48 Q. With that scope of chain out, could she have been sheered in the tide, if anybody had been on deck to do it?

A. She could have been sheered some.

Q. How much?

A. In that depth of water, I suppose she could have been sheered two rods, or thereabouts.

Q. Could the chain have been slipped?

A. Yes, sir; it could.

Q. How long would it have taken to have slipped the chain—the anchor chain, I mean?

A. From three to six minutes; I could not tell exactly.

Q. Had she scope enough of chain to admit of its being run out, without slipping the cable?

A. To have cleared the burning boat?

Q. If anything had been approaching?

A. If she had not been too far toward her; we had sixty fathoms of chain.

Q. You stated that it would have taken from three to six minutes to have slipped the chain?

A. It would have been the same thing as running it all out.

Q. When you came out on deck who did you see on deck—anybody?

A. I could not say positively; I found the crew after I had got forward—some of them; I could not say which ones they were.

Q. When you came out had any part of the ship got afire from the burning ferry-boat?

A. I do not know as any part of the ship had, but I think by the time we got forward some of the head-rails were afire.

Q. Did you or any one leave the schooner in a boat, after the ferry boat had got clear?

A. I will not say whether I left before she got clear or afterwards; we left immediately after the schooner took fire, but I will not say whether the ferry-boat was clear or not.

Q. Where did you go in this boat?

A. We went alongside of the protection boat.

Q. What did you go for?

49 A. We went to get clear of the fire.

Q. Did you ask for an axe?

A. I asked for an axe.

Q. For what purpose?

A. To scuttle the ship.

Q. What was the reply?

A. They said for us to go back, that they would save the vessel.

Q. Did they afterward come to the vessel?

A. Yes, sir.

Q. Did they throw water on the fire?

A. Yes, sir.

Q. Did they put it out?

A. They put it out.

Q. Was the captain with you in the boat?

A. Yes, sir.

Q. What progress had the fire made before the tug came back to the schooner to put out the fire?

A. I could not say positively what progress it had made.

Q. Can you say what had burned?

A. I cannot say. When we got back aboard again, from the tug, she was literally all afire, forward.

Q. That is the foresails and fore rigging?

A. The fore rigging—foremast—the vessel was all on fire—jib-boom, bowsprit, and headstay.

Q. Was there anything to prevent the destruction of the vessel if the fire had not been extinguished?

A. I don't think there was.

By the court:

Q. You had no axe on board?

A. No, sir; we had broken our axe, the day before, in the afternoon.

Q. You had nothing to scuttle her with?

A. No, sir; not that I am aware of.

By Mr. Van Santvoord, resuming:

Q. Have you any idea of the extent of the injury that the schooner sustained in this burning?

50 A. Yes, sir; I have some idea; but I have no idea what it cost. I did not pay the bills.

Q. Do you know what it cost from any statement of the owners of the vessel—the claimants here?

A. I do not know that I ever heard a full statement, and what I have heard I have not charged my memory with every——

Q. What was the tonnage of this vessel?

A. That I could not tell you, as to the register; but I could tell you her capacity of carrying tons.

Q. What was that?

A. I think 355 tons was her capacity, dead weight.

Q. Do you know where she was built?
A. No, sir; I cannot say that I do.
Q. She was a fore-and-aft schooner?
A. Yes, sir; a fore-and-aft schooner.
Q. How many decks had she?
A. Two decks.
Q. She was a double-decker?
A. Yes, sir.
Q. That is, a deck in the hold below the main deck?
A. We call the lower deck the main deck, and the upper deck we term the poop deck.
Q. When you say she was a double-decker, you mean she had a poop deck, and the main deck lower than the poop deck?

By the court:

Q. Did the poop deck run all the way fore-and-aft?
A. Yes, sir.
Q. Was she a two-masted or three masted schooner?
A. Two-masted.

By Mr. VAN SANTVOORD, resuming:

Q. Are you competent to estimate what her value is? (Objected to.)
A. No, sir; I am not competent to judge.
Q. Do you know, from a statement of her owners, what her value was?
51 A. I do not think I ever heard them make a statement of what her value was. If I ever heard, I don't recollect.
Q. Do you know what the cost of the captain's fourth of her was?
A. I think I heard him say what it cost, but I will not say positively.
Q. How much?
A. I think I heard him say $4,500, but I am not positive.

Cross-examination, by Mr. Owen:

Q. When you came on deck how did the burning boat bear from you?
A. When we came on deck she was afoul of the schooner, under the bow.
Q. How was she heading, in reference to her motion?
A. I do not know as she was heading at all. At the time she was afoul of our bows they pulled her to the westward.
Q. What portion of her was afoul?
A. I could not say.
Q. About amidships?
A. I could not say whether about amidships, one third or one-quarter.
Q. Was she nearly square across your bow?
A. That I could not tell you.
Q. Did you see the tug at that time?
A. I suppose I saw the tug in a minute or so after I saw the boat.
Q. How did the tug bear from you?
A. She was on her starboard bow a little; I could not say how she bore particularly.
Q. How far off, do you think?
A. Perhaps she might have been 30 or 40 yards. I could not say positively.
Q. How was she heading?
A. That I could not tell you.
Q. Do you know the depth of water where you lay?

A. Not positively; I did at the time, but I don't recollect now.

52 Q. How would you sheer a vessel as she lay by the use of her rudder two rods?

A. In the length of the chains and by the help of the tide.

Q. How would you put her wheel?

A. I should put her wheel a-starboard—the way to clear us as we were pulling to the westward.

Q. How would that have canted your head as you lay at anchor?

A. That would have thrown the stern to the westward and the head to the eastward.

Q. Just as if you were going forward?

A. Yes, sir.

Q. Had you used any portion of the chain except what was now on deck, during the time you had been connected with the schooner; had you ever run the whole out?

A. Not that I know of.

Q. Where was the balance?

A. The balance was in the chain-locker.

Q. On the deck?

A. Abaft the windlass—on the lower deck.

Q. Don't you know there was a person left on the deck that night?

A. I am positive there was not.

Q. Why not; have you any reason for it?

A. Because it was not customary to keep an anchor-watch in that position. It is very seldom kept unless in a case where we apprehend danger from wind or weather.

Q. How long did the ferry-boat remain afoul before she was pulled off by the tug, as near as you can state?

A. There was such confusion about our getting in the boat that I do not know, but perhaps two or three minutes, more or less; I cannot say positively.

Q. Did you go to the tug before the ferry-boat had hauled off? Was the ferry-boat afoul of the vessel when you went off?

A. I could not say whether they had got her clear or not at the time we left for the boat.

Q. Whom did you see on the tug when you reached it?

53 A. I could not say whom I saw.

Q. Whom did you ask for the axe?

A. I didn't ask any one particularly; I only asked for an axe.

Q. They didn't give it to you?

A. Yes, sir, they gave it to us.

Q. Then did you return to your vessel?

A. They told us to go back, that they would put the schooner out; we didn't return until they said they would.

Q. Where was the rest of the crew at the time the captain went for the axe?

A. They were in the boat with us.

Q. All in the boat?

A. Yes, sir.

Q. You all went back again to the vessel?

A. Yes, sir, we went back to the vessel?

Q. Did you go aboard of her?

A. Yes, sir.

Q. Were you all aboard when the tug came to your assistance?

A. I will not say that we were aboard, but I think we got aboard

simultaneously. I think those on the tug were getting aboard at the same time.

Q. You laid around the vessel?

A. Yes, sir.

Q. How long do you think it was after you asked for the axe before the tug came to your assistance?

A. Only a short time; I could not say exactly—perhaps five or ten minutes.

Q. What did you see when she came back?

A. She made fast alongside. I think she started streams before she got to us and made fast on our starboard side.

Q. They then threw water?

A. Yes, sir.

Q. How long was she engaged in putting the fire out?

A. I think she staid by us two hours, perhaps three: I don't know exactly.

Q. Was there any other boat that assisted to put the fire out?

54 A. Yes, sir.

Q. What one?

A. That I cannot say.

Q. What kind of a one?

A. A ferry-boat.

Q. Do you know what she did?

A. She threw a stream of water. I don't know how much. I cannot tell what her name was.

Q. About what time did she come to your assistance, before or after the tug-boat?

A. I cannot say. I do not think there was much difference.

Redirect examination:

Q. Who composed the whole crew of the Clara?

A. There was the captain, myself, the steward, and three sailors.

Q. What was the captain's name?

A. Cox.

Q. Augustus Cox?

A. I believe, Augustus Cox.

Q. What was the steward's name?

A. I cannot tell you.

Q. Do you know the names of the sailors?

A. I know the name of one man. He went by the name of Tom Savage. The other two came aboard that day. They are Dutch; in fact, I do not know whether they had any names in English.

Q. Was not one a Portuguese?

A. I could not say whether they were; I could not understand what they said. They talked very little English.

Recross-examination:

Q. I want to know whether you had any light set that night.

A. Yes, sir, we had a light.

Q. Where was it?

A. In the fore-rigging.

Q. What time did you turn in that night?

A. I think about ten o'clock. I can't say positively.

55 Q. Did you get to sleep before you were called up?

A. I was not called.

By the court:

Q. You were sleeping at the time of the crash?
A. Yes, sir.
Q. Did the crash occur before you got on deck?
A. Yes, sir.

JOHN M. MASON, a witness on behalf of the New York Harbor Protection Company, being duly sworn, testifies:

By Mr. Van Santvoord:

Q. What is your occupation?
A. A seaman.
Q. Were you one of the crew of the tug Clara Clarita?
A. I was.
Q. In what capacity were you employed?
A. Wheelsman, at that time.
Q. At the wheel at the time the tug went over?
A. I held the position of wheelsman aboard the boat at the time.
Q. Were you on the tug before she left her berth, at the foot of Canal street, on the other side of the river?
A. Yes, sir.
Q. Had you seen smoke there, and did you know what it was that called the boat over there?
A. I saw smoke, but I could not tell what it was.
Q. Did you steer the boat over there?
A. No, sir, I didn't steer the boat all the way. I was on the deck, getting the hose ready, and part of the time the captain was at the wheel.
Q. Did you discover where the fire was?
A. I discovered when we got there.
Q. Where did you discover it was?
A. When we got over there, we landed at the end of the dock, just above the ferry-slip. I went on the dock to find out what was afire. A boy on the dock told me it was a boat in the Christopher street slip.
Q. Did you follow up that information?
56 A. I then went back to the boat and told the captain where it was.
Q. Then what was done?
A. I then went around, to get at it, down to the New-York end of the ferry-boat.
Q. Was a hawser taken to attach to the ferry-boat?
A. Yes, sir.
Q. With the other end on the tug?
A. Yes, sir.
Q. To what part of the ferry-boat was the hawser attached?
A. It was on the starboard bow, calling the York end of the ferry-boat the bow.
Q. Where was the end on the tug?
A. The other end was made fast to our bits.
Q. At the time she went up to the ferry-boat?
A. Yes, sir, our forward bits.
Q. Where was the bow of the tug?
A. It lay between the rack of the slip and the ferry-boat's bow.
Q. Do you know whether the hose was taken on board the ferry-boat from the tug?
A. Yes, sir, two lengths.

Q. Did you assist in doing that?

A. I did.

Q. What was done with the hose?

A. It was taken along in the amidship-gangway, the wide gangway, what they call the horse-gangway, by one of the engineers of the fire department. (Objected to unless the witness knows that the person was an engineer of the fire department.) I suppose he was an engineer. He was dressed in fireman's clothes, had on a white hat, and had a trumpet. I took him to be engineer.

Q. You took the hose on board the boat?

A. Yes, sir.

Q. Which part of the boat was the fire in?

A. Down below the deck, in the hold.

Q. Did you continue to throw water down in the hold there?

57 A. Yes, sir.

Q. For how long?

A. Probably half an hour. It may be more.

Q. Then what was done afterward? What did the tug do?

A. I got my orders to take the hose over aboard the ferry-boat—take them aboard of her bow—that they were going to pull the ferry-boat out.

Q. What did you do?

A. After we got the hose on board I went up and took down some awning-stanchions that were standing aft, to get them out of the way of the hawser; the awning-stanchions and ridge-pole, and pole where the awning had been up.

Q. What was the next thing done by the tug?

A. The tug, in the meantime, had moved her bows out clear of the ferry-rack, so that she could get out by means of the hawser made fast to her, and got headed out in the river. I then went forward and took the wheel.

Q. What then?

A. We proceeded then to pull the ferry-boat out, and got her started. The flames broke out all over apparently, amidships and under her guards.

Q. Which way was the wind; that is, in what direction?

A. Southwest.

Q. What was the direction of the tide?

A. The tide was flood.

Q. What course did the tug take in hauling the ferry-boat out of the slip?

A. About southeast.

Q. Why was that?

A. So as to pull her down against the tide, to clear some barks that lay above the ferry-slip.

Q. What happened while she was hauling the ferry-boat?

A. The flames burnt the hawser off. The ferry-boat then drifted afoul of the bark.

Q. What did you do when you saw her drift afoul of the bark?

A. As soon as we got our lines in that had been burnt off, and got them on the tug, we went to the ferry-boat and got another line to her.

58 Q. Did you lose any time in going to the ferry-boat?

A. Nothing more than was actually necessary to get the lines in from overboard, so that they would not disable the boat.

Q. Did you haul the ferry-boat off the bark?

A. Yes, sir; after we got a hawser to her the second time, we pulled her clear of the bark.

Q. Which way did you pull her?

A. We pulled her down in about a southeasterly direction, to get her clear of the bark.

Q. Was that necessary?

A. Yes, sir.

Q. After you had pulled her clear of the bark, what then did you do?

A. We then hauled around and headed up the river with the wind and tide toward Hoboken Flats.

Q. What happened next?

A. The hawser burned off again.

Q. That was the third time it burnt?

A. It was the second time.

Q. What next did you do?

A. We got the hawser to her again.

Q. Who took that third hawser?

A. That I cannot say. I saw some men in the boat, but I don't know who they were. I didn't have a chance to know.

Q. Was it taken in a life-boat?

A. A life-boat, I think, that belonged to the ferry-boat.

Q. Do you know who the men were—where they were from?

A. They came aboard of us from the ferry-boat before we started from the slip.

Q. Do you know how this last hawser happened to get off—how it parted?

A. The last one?

Q. Yes, the third time?

A. I don't know how it got adrift.

Q. You don't know whether it burnt off or pulled off?

59 A. No, sir; I don't know how any of them—I could not swear to any of them, because I didn't see the hawsers. I was in the pilot-house.

Q. At the time this hawser separated the last time, how was the tug and ferry-boat heading?

A. It might have been west, or it might have been a little to the northward of west. She was then standing across the river, toward the flats.

Q. What was the bearing of this schooner at that time—at the time the hawser parted the third time?

A. About southeast.

Q. The schooner southeast? How was the schooner bearing toward the tug and ferry-boat?

A. About northeast.

Q. The schooner was north of the tug?

A. Yes, sir.

Q. How was the ferry-boat?

A. There was not a great deal of difference. There might have been a half point.

Q. How far off was the schooner?

A. I should judge two hundred and fifty or three hundred yards.

Q. When the hawser parted the third time what happened to the ferry-boat?

A. The ferry-boat went drifting up the river, and drifted afoul of the schooner.

Q. How long a time was she drifting up?

A. It might have been eight or ten minutes and it might have been more.

Q. Have you been a seaman on schooners?

A. Yes, sir.

Q. Brigs, and on what other vessels?

A. Nothing out of New York, but most all eastern schooners.

Q. What class?

A. Fore-and-aft schooners—the same class as the Clara.

Q. For how many years—what experience have you had?

A. I have been following the water for twenty years. I was some four years on schooners.

60 Q. Could that schooner where she lay at that time have been sheered?

A. I think she could.

Q. Could the cable have been slipped?

A. Yes, sir.

Q. If there had been anybody on the deck when the ferry-boat began to drift was there time to have sheered, or to have slipped the cable, so as to have cleared the ferry-boat?

A. Yes, sir; there was plenty of time.

Q. What did the tug do after the ferry-boat broke adrift; did she go to her?

A. We went after her again and got hold of her.

Q. Did she get hold of her again?

A. Yes, sir; we got a hawser on her again.

Q. Where was the ferry-boat at the time she got hold of her again?

A. Lying across the schooner's bow.

Q. Had any part of the schooner been afire?

A. Yes, sir.

Q. What part?

A. The jib-boom, the bowsprit, the head-slings, the fore-rigging, and the foremast.

Q. Why did you not get hold of the ferry-boat sooner than you did?

A. We got hold of her as soon as we could. We used all our exertions to do it.

Q. After you got hold of her the second time did you haul her off?

A. Yes, sir.

Q. In what direction did you pull her in hauling off?

A. The last time when we pulled her clear of the schooner, I think we pulled her about southwest—that is, a little down the river, in toward the Jersey shore, the boat was heading.

Q. After you pulled the ferry-boat off what did you do with her?

A. We started in with her into the flats, and towed her a short distance, when she sunk.

61 Q. After that, what was done by the tug?

A. We then got our hawser from her and went to the schooner and put the fire out.

Q. Do you recollect of a boat's coming to the tug, and inquiring for an axe?

A. Yes, sir. I heard some one hail the boat and ask for an axe.

Q. What answer was given?

A. Some one answered that if they would go back to the schooner, the schooner would be all right; that we would take care of her. I think that was the expression, that we would take care of the schooner.

Q. Was that some one on the tug?

A. I think the captain made use of that expression.

Q. At the time the ferry-boat was drifting up toward the schooner, what was the ferry-boat's condition?

A. She was all in flames.

Q. Did you notice whether there was any light in the rigging of the schooner?

A. No, sir. I didn't see any light. I saw a lantern hanging there the next morning with no light in it. I didn't see any light at all.

Q. Did you see anybody on the deck of the schooner before the ferry-boat got afoul of her?

A. No, sir.

Q. Before the ferry-boat got afoul of her, did you give or hear any hail to the schooner?

A. I would not be positive in regard to the schooner. I know I hailed the bark, but whether I hailed the schooner or not, I could not say.

Q. Did a ferry-boat come up to the tug while the tug was playing on the schooner, to put the fire out?

A. Yes, sir.

Q. What did she do?

A. She came up there and put a stream of water on the schooner.

Q. Did she take off the crew?

62 A. She took on board all those men that came on board of us from the ferry-boat in the first place. She laid there a few minutes and left.

Q. You were putting out the fire at the time she came there?

A. Yes, sir.

Q. She did throw some water?

A. Yes, sir.

Q. At the time she came there, do you know whether you were getting the flames under?

A. I could not say, but as far as could be seen from the deck, we had.

Q. What was burnt on this schooner?

A. All the head-sails, the foremast, the fore-rigging, the jib-boom, bowsprit, and a part of the hull forward.

Q. Who took the hose on board the schooner from the tug?

A. I helped take them.

Q. Did you say the water was playing from the ferry-boat, and she was attached to her?

A. Yes, sir.

Q. How was she attached?

A. She was made fast by a line from her port-bow to the schooner's starboard bow.

Q. Who took that line to her?

A. I did, myself.

Q. What line did you take?

A. I took the bow line first.

Q. Was the tug exposed to any risk while lying aside of the schooner; was there danger of catching fire?

A. Yes, sir, there was some. Her paint was blistered. She was scorched up some forward.

Cross-examination by Mr. Owen:

Q. How long have you been connected with the tug Clara Clarita?

A. At that time?

Q. Yes, sir.

A. A little over four years.

Q. Had you been wheelsman during all that time?

63 A. Yes, sir.
Q. What is your duty as wheelsman?
A. To steer the boat.
Q. Where do you stand?
A. In the pilot-house.
Q. Where is that pilot-house on your boat?
A. It is about twenty feet, it may be, abaft the stem.
Q. How much is it elevated above the deck?
A. The floor is about three feet above the deck.
Q. Were you in the pilot-house ahold of the wheel all the time until you attempted to place her on the flats after pulling the ferry-boat out?
A. Yes, sir.
Q. Any one assist you in steering?
A. No, sir.
Q. Anybody in the wheel-house with you?
A. The captain came in once; I think it was when we were rounding. I cannot say whether it was after the hawser burned the second time or after it had burned off the third time, before he came in. It was one or the other of these times. I think it was after the hawser burned the second time.
Q. How many hawsers had you on board your tug?
A. We had four.
Q. Give the size of them.
A. Three of them were five-inch rope, and one was a seven-inch rope.
Q. Which rope did you put on the first time?
A. The five-inch rope.
Q. Was it the same rope that you had made fast to her when you first went to her?
A. Yes, sir.
Q. When did you put on the seven-inch rope?
A. After the five-inch rope had burned off twice we put on the seven-inch rope.
Q. Did that burn off?
A. I expect it burned off; I don't know.
Q. Did you not say you cut loose after she came aground?
A. We cut loose the last time, when the boat sunk.
64 Q. Then you put on the seven-inch rope when she was afoul of the schooner?
A. We put it on before she got afoul of the schooner.
Q. But it was not used to tow until after she had got afoul of the schooner?
A. Yes, sir; it was used before that.
Q. When?
A. Before it burnt off. Before we got afoul of the schooner.
Q. How long do you think you had played water on the burning boat while it lay in the slip?
A. A half hour; it may have been more.
Q. Was there another hose playing upon that at the time?
A. Yes, sir.
Q. How much do you think the boat settled while she lay in the slip?
A. I could not say. I didn't take particular notice when we first went there to notice how she was out of the water.
Q. Do you think she settled at all?
A. She had settled some.
Q. Do you know how wide that boat was across the bow or New York end?

A. She may have been thirty feet; I don't know exactly.
Q. Do you know her length?
A. No, sir.
Q. Do you know her width amidships?
A. No, sir.
Q. Do you know her tonnage?
A. No, sir.
Q. Did the fire appear at all before you made fast to her to take her out, so that you could see the flame?
A. No, sir.
Q. Did you not all suppose you had got the fire under at the time?
A. At the time we pulled her out?
Q. Yes, sir; at the time you made fast to take her out.
65 A. No, sir.
Q. What effect had the towing her down against the wind and tide?
A. I do not know.
Q. Would it not fan it up?
A. I suppose it would help fan it some.
Q. In the process of making fast you first brought your tow toward the ferry-boat?
A. Yes, sir.
Q. And you made the rope or hawser fast to the ferry-boat on her starboard bow?
A. Yes, sir.
Q. What part of it did you attach to?
A. It was on the starboard bow; that is all I recollect. It was upon an iron cleat on the starboard bow.
Q. Was there an anchor hanging on the starboard bow?
A. I did not notice any.
Q. Did you help make fast the hawser at that time on the boat?
A. Yes, sir.
Q. How long had that hawser you made fast at that time been in use?
A. It might have been in use three weeks or a month—not more than that.
Q. Had you any vessels with it?
A. No, sir.
Q. Had not towed anything with it?
A. No, sir, we had not towed anything with it. We used them to make the boat fast with.
Q. Before you fastened the end of your bow did you back out and turn the bow out in the stream, and then back up again to the ferry-boat?
A. When we first went in?
Q. You went in and made fast to the ferry-boat; how did you get your bow around out into the stream?
A. We took the line from our bow, and took it into our quarter-chock on the starboard quarter, and made it fast to the aft bits; we backed on to it, and it swung our bow clear of the ferry-rack.
66 Q. Then the ferry-boat was at your stern, so that you could pull upon her?
A. Yes, sir.
Q. How long, as near as you can recollect, was it from the time you commenced playing water upon it before the fire broke out, and burned off the hawser?
A. It may have been twenty minutes before the hawser burned off.

Q. How far out into the stream had you towed her?
A. About 200 yards.
Q. Was any person on board of the ferry-boat at the time when you started?
A. No, sir.
Q. Where were those who were on the boat?
A. They were all on our boat.
Q. Who was left on the ferry-boat?
A. None that I know of.
Q. Who directed you how to steer?
A. The captain of the tug.
Q. You took all your directions from him?
A. Yes, sir.
Q. Had the line broke off or burnt off while you were towing the ferry-boat into the stream, before you began to swing up?
A. Yes, sir; we were just about going to swing when the hawser burned off.
Q. Are you sure it burned off?
A. I am not sure; I know it became separated.
Q. You don't know whether it burned off by fire, or whether it separated?
A. No, sir, I could not say.
Q. When the line broke, how did the ferry-boat drift then.
A. She drifted up the river.
Q. What were your orders then?
A. I don't remember what my orders were.
Q. What did you do with your wheel?
A. I cannot recollect what order I got about which way to put the wheel; but I did whatever I was told to do. I cannot remember now the orders.
67 Q. The order came from the captain?
A. Yes, sir.
Q. Do you remember whether you ported your wheel in coming around, or starboarded?
A. I don't remember now which way I did come.
Q. How long was it, as near as you can judge, from the time this hawser parted before the ferry-boat came afoul of the bark?
A. As near as I can remember, about five or six minutes.
Q. Had you got up to her, so as to begin to make fast, before she got afoul of the bark?
A. No, sir; we had not got into her close enough for that.
Q. Why had you not?
A. We had not got our line in; as soon as we got our line we went right off for the ferry-boat.
Q. How did you take hold of the ferry-boat at that time?
A. We took hold of her with the same-sized rope.
Q. Was it the same line?
A. I don't know whether it was the same line, but it was the same-sized line, I know.
Q. To what was the line made fast on the ferry-boat?
A. I could not say.
Q. You did not observe that?
A. No, sir.
Q. Nor how it was made fast on to your boat?
A. No, sir.
Q. When it was fast, how were you directed to steer?

A. To steer about southeast.
Q. Right away off again?
A. Yes, sir.
Q. Did you swing around in order to do that?
A. I didn't want to swing round. I wanted to go right ahead. We pulled her about southeast—in a southeast direction.
Q. How far did you pull her into the river before you began to swing up astern?
A. Just as soon as we got her clear of the bark.
68 Q. In about what part of the river were you?
A. We were then about two or three hundred yards from the shore—from the end of the dock.
Q. Which shore?
A. The Jersey shore?
Q. When you turned up the river?
A. Yes, sir.
Q. How far had you turned up the river before the hawser parted?
A. It might have been up to Eighteenth or Nineteenth street. I could not say; but somewhere along there, in that neighborhood.
Q. Did you cant over toward the New York shore during the time you were towing?
A. While swinging around we went over that way some, to turn around before going up the river.
Q. How did the hawser part the second time—did you see?
A. No, sir.
Q. Had you seen the schooner when the hawser parted the second time?
A. No, sir.
Q. Was there any danger at the time—any probable danger to the schooner when that hawser parted, from having this boat drifting upon her?
A. The second time?
Q. Yes, sir.
A. No, sir. I did not see any schooner. I did not suppose there was any vessel there.
Q. When did you first notice the schooner?
A. Just before the hawser burned off the third time.
Q. Then the hawser parted the second time when you were towing, after you had got afoul of the bark, and before you got up to the schooner?
A. Yes, sir.
Q. How far had you towed her, do you think, the second time, before it parted?
A. I don't know exactly how far we had got with her.
69 Q. Had you got to moving up in the direction you wanted to go?
A. Yes, sir, we were heading in the direction of the flats.
Q. Was she settled in the water at that time?
A. Yes, sir, she was getting pretty low in the water.
Q. When the hawser gave way the second time, then what did you do?
A. After it gave out we got the seven-inch hawser out.
Q. How long were you in getting to her?
A. We might have been ten minutes or more—fifteen, probably.
Q. When you got to her with that hawser, was the schooner in sight then?

A. Not at that time. I did not see her.
Q. How long did you tow with that hawser?
A. We might have towed ten or fifteen minutes.
Q. What occurred then?
A. The ferry-boat became separated from us by the hawser giving way or burning off.
Q. Are you not mistaken in saying that the seven-inch hawser was put on at that time?
A. No, sir.
Q. It was done?
A. Yes, sir.
Q. Was it not at the time she lay afoul of the schooner?
A. It was put on at that time too. It was put on twice; the first time was before she got to the schooner. The last hawser we run to her was when she was lying fast to the schooner.
Q. When did you first see the schooner?
A. Just as the hawser burned off the second time.

By the court:

Q. The second time?
A. The third time.
Q. How far was the schooner from you at that time?
A. Probably three hundred yards; it may have been more.
70 Q. And bearing off your starboard, was she not?
A. Yes, sir, from us.
Q. At that time was there any probable danger of a collision of the burning boat with the schooner; did you think there was any danger?
A. No, sir, I did not think there was. I thought the ferry-boat would clear her.
Q. When did you think there was any danger of their coming together?
A. When she was within about fifty or seventy-five yards of her.
Q. What did you do on board of your vessel to prevent her from getting afoul of the schooner?
A. I was trying to get hold of her to keep her clear.
Q. You did not get hold of her?
A. Not in time.
Q. Why not?
A. We had not help enough, and if we had got a boatful of men we could not have done it any quicker. We got in the hawser as soon as we could.
Q. Was there any difficulty in steering the tug?
A. No, sir.
Q. Not at all?
A. No, sir.
Q. Nothing the matter with the tiller-ropes?
A. There was a piece of rope-yarn got jammed upon the sheaves.
Q. Didn't that embarrass you in steering the boat?
A. Not for any length of time.
Q. Didn't you stop some time to fix it?
A. Not for that.
Q. Didn't you fix it while you were stopping?
A. I don't know whether we were stopped or not. I know that I went out of the pilot-house and found out what it was, and I pulled it out.
Q. Who had the wheel during that time?

A. The captain.

71 Q. You didn't think there was any risk of collision until the ferry-boat came within seventy-five yards of the schooner?

A. From where I was I could not see that there was—that is, when I made up my mind she was going to strike her.

Q. Where were your captain and men at the time?

A. All the men were aft, and the captain was on the aft part of the house. The men, I suppose, were getting in the hawser. I don't know.

Q. Who directed the taking out of the hawser and making it fast?

A. The captain, I suppose.

Q. He took the whole command of the tug—the whole service?

A. Yes, sir.

Q. When the ferry-boat struck, did you come that way up against her? (illustrating.)

A. She drifted up that way with the tide.

Q. She came pretty near the broadside on the schooner?

A. Yes, sir; very nearly.

Q. How long after she came in contact with the schooner before you got hold of her to drag her off?

A. She might have laid there three or four minutes, and it might have been more. I could not say exactly as to the time.

Q. Was all that time necessary for you to get the hawser again fast to her?

A. Yes, sir.

Q. How far did you tow her after that before she took the bottom?

A. I may have towed her some hundred yards, or one hundred and fifty yards, may be.

Q. How deep was she in the water when she took the bottom?

A. I don't know. I do not know how much water there is there.

Q. Don't you know how deep the water is where she grounded?

A. No, sir; I don't know exactly.

72 Q. Had she settled visibly very considerably?

A. Yes, sir; before she sunk she had.

Q. When the captain and men came out to the tug after the ax, had you commenced towing the ferry-boat off from the schooner?

A. I think we were towing on her then and trying to pull her clear, but I am not certain.

Q. Did you give him an ax?

A. I didn't, but some of the men, I believe, gave him an ax.

Q. You told them to go back, and that you would come and put out the fire?

A. The captain told him that, I believe.

Q. When you came back, did you not find them on the deck or by the schooner?

A. I did not see them at all.

Q. You never saw them at all?

A. Not until after we were alongside, and had made fast to the schooner.

Q. Then you saw them?

A. Yes, sir.

Q. Where did you see them?

A. I saw the mate and one man abaft the foremast.

Q. On the vessel?

A. Yes, sir.

Q. Did you not hear some one say to drop your yawl astern as you came up there?

A. There were some men who came in a shore-boat, and I told them to drop astern, where they could creep up on the side.

EDWARD PALMER, a witness called on behalf of the New York Harbor Protection Company, being duly sworn, testifies:

By Mr. Van Santvoord:

Q. You were engineer of this tug?
A. Yes, sir.
Q. Were you on board at the time she went to the Hoboken ferry slip?
73 A. I was.
Q. In August, 1870?
A. Yes, sir.
Q. After she got there, do you know what she did?

The COURT. There seems to be very little dispute about the facts in this case, and it is not worth while to go over those matters that are wholly undisputed. We have had three witnesses who have tediously told the whole story. Their statements do not vary a particle. I do not believe it will vary in this case. It is quite apparent where the dispute is, and I would suggest that it is useless to accumulate evidence as to the main points in the case.

Examination resumed:

Q. You went on this boat?
A. Yes, sir.
Q. Did you assist in taking the hose on board the ferry-boat?
A. No, sir.
Q. What did you do there?
A. I attended to the engine.
Q. You worked the pumps with the engine?
A. I attended the engine that drove the pumps, and I attended to the pumps. They were separate from the main engine.
Q. And you remained as engineer working the engine when it was worked?
A. Yes, sir, according as the bells rung.
Q. Were you alongside the schooner when the tug went there to put the fire out?
A. Yes, sir.
Q. Did you observe the progress of the flames?
A. Yes, sir, I did when I was on deck. I was looking after a pump. They had got pretty well and going on the schooner.
Q. Had it made such progress that the boat would have burned?
A. I had my doubts whether they would be able to put it out.
74 Q. Do you recollect this ferry-boat?
A. Yes, sir; she came alongside of us.
Q. Which side?
A. On the starboard.
Q. What did she do?
A. I don't recollect of her doing anything.
Q. Did she take off any men?
A. She took men aboard of her.
Q. Were you fast to the schooner at the time?
A. Yes, sir.
Q. After that did she go away?
A. Yes, sir.
Q. Before you put the fire out?
A. Before we put the fire out.

Cross-examination by Mr. Owen:

Q. Did you have anything to do with making fast with the hawsers?

A. No, sir.
Q. Did you see them made fast?
A. No, sir.

By Mr. Van Santvoord:

Q. Your place was in the engine-room?
A. Yes, sir; altogether.

JOHN J. CHASE, a witness called on behalf of the New York Harbor Protection Company, being duly sworn, testifies as follows:

By Mr. Van Santvoord:

Q. What is your occupation?
A. Superintendent of the Hoboken Ferry Company.
Q. Were you superintendent of the Hoboken ferry in 1870?
A. I was.
Q. Were you present at the time of the fire on the ferry-boat Watt?
A. I was not present at the time of the breaking out of the fire. I was there directly after.
75 Q. What description of vessel was the Watt?
A. She was a boat 184 feet long.
Q. A ferry-boat?
A. A ferry-boat.
Q. What had she on deck?
A. One covered gangway and one open gangway and a cabin on each side.
Q. These cabins were of what material?
A. Of pine.
Q. The joiner-work?
A. The joiner-work.
Q. With the usual inclosure in the middle of the boat, inclosing the gallows-frame and engine?
A. Around the engine.
Q. Wheel-houses?
A. Yes, sir.
Q. A deck over one carriage-way?
A. A deck over one-half of the boat.
Q. And above that pilot-houses?
A. Pilot-houses.
Q. What was the height of the cabins on the deck?
A. I should think they were between nine and ten feet.
Q. Was this deck covered with canvas or was it pitch?
A. I am rather of the opinion it was canvas.
Q. Where was the boat at the time she was burning?
She was in the Christopher street slip.
[A diagram of the relative locations of the boats and the racks at Hoboken ferry landing was here produced to the witness.]
Q. How many slips are there?
A. Four.
Q. You call this the Christopher street slip? [Referring to the diagram.]
A. There are two slips of the Christopher street ferry, but only one that is finished.
Q. Then to the north of that, is what?
A. There is a vacant place we call the canal, to lay up boats in.
Q. North of that, what?
76 A. The Newark street pier.

Q. And north of that?
A. The balance-dock.
Q. Has the Christopher street slip what you call a pier?
A. There is a centre pier running out.
Q. Built of what?
A. Oak piles.
Q. Any pine in any part?
A. No, sir; nothing except the cover over it.
Q. The Christopher street pier, that is separated from the next?
A. By a row of piles.
Q. The next pier south is the Barclay street?
A. There is no pier there.
Q. Is there a slip?
A. There is a rack.
Q. Separating?
A. Yes, sir.
Q. These different slips, the Hoboken slip and the slip between that and Christopher street, are all separated by what you call racks?
A. Yes, sir.
Q. And these racks are of what?
A. Oak piles.
Q. At the time this ferry-boat was on fire, what other boats were in her neighborhood?
A. The Patterson was lying along on the south side.
Q. Separated from her by what?
A. By a rack of piles.
Q. Where was the Rumsey?
A. The Rumsey was lying on the north side of her, on her bow.
Q. And the Chancellor?
A. She laid next south, on the end.
Q. And the Clara Clarita?
A. She laid between her and the Christopher street rack.
Q. And south of the rack?
A. Of the Christopher street rack.
47 Q. And the Weehawken?
A. She laid in the canal.
Q. On this ferry-dock—what was there?
A. The ferry buildings. There are slips and bridges there, and sheds over them.
Q. Then these waiting-houses?
A. There are two, right in between the two slips.
Q. Close upon them?
A. Yes, sir.
Q. Was there a tank in the slip next south of the Christopher street slip?
A. Yes, sir; south of the Christopher street slip, and a short distance from the Patterson.
Q. A tank for what?
A. A tank for gas.
Q. What did it hold?
A. Eight hundred feet.
Q. Was there any connection with the gas-tank and the Christopher street slip?
A. Yes, sir; there was a four-inch iron pipe, which was laid along until it came to the lower pier, and led into a box on top of the rack, with an India-ruber tube beyond.

Q. Connecting with this shed and ferry-house on the wharf?

A. The pipe lays within two feet of it.

Q. Connected with the building on these wharves were there the offices and the buildings of the Morris and Essex Railroad Company?

A. They laid on the lower side of the Barclay-street slip.

Q. Was there any lumber on any of these wharves?

A. I should think there was; there is almost always some on the wharves by the Barclay-street ferry.

Q. Does this map already produced represent the position of these piers and the way the boats were?

A. Nearly so; there is not a great deal of difference, but there is some little difference.

Q. Where was the fire on board of the boat when you got there?

A. Down in her hold.

78 Q. What was done to put that fire out; what efforts were made?

A. All efforts were made, as far as I know, in regard to water, etc.

Q. State that—how many streams, and from what.

A. I could not tell what streams there were from the shore.

Q. State all that you do know.

A. I know that there was one from the Hoboken and one from the Chancellor, one from the Rumsey, and I think two from the Clarita.

Q. And were there other streams from the hydrants of Hoboken?

A. I presume there were. I saw hose, but I don't know where they came from; I presume they came from there. I saw hose and I saw water, but I could not say from what particular point they got it.

Q. Did you have the hose from the Hoboken?

A. I did. I got it out myself—that is, I helped to get it.

Q. Where was the water thrown by these different streams?

A. It was thrown down below to keep the fire down. I throwed a stream right around in the engine-room—that is, around in the crank-room, until it was taken away from me.

Q. What effect did these streams of water have in extinguishing the fire?

A. I don't think they had any; if anything, the fire was gaining.

Q. What was the difficulty?

A. The fire was breaking out under her guard.

Q. Why was it gaining; what was the difficulty in extinguishing it?

A. We could not get to it.

Q. Why could you not get to it?

A. For the simple reason that a man cannot cut a hole through the roof of the house——

Q. The fire was right under the deck?

A. I could not play on to it to reach it.

79 Q. Could anybody get into that hold to direct the water where the fire was under the deck?

A. I should rather say not.

Q. Why?

A. Because he would burn up.

Q. It was full of flame and smoke?

A. The smoke was very dense.

Q. At the time the direction was given to haul the boat out, had the joiner-work of the ferry-boat got afire?

A. It was on fire.

Q. Was there anything to prevent the fire from burning these racks and the buildings on the docks?

A. No, sir; I think not.
Q. And the other boats adjoining?
A. I should think not.
Q. Then, at the time she was hauled, was it necessary to haul her to prevent the spread of the conflagration?
A. I should think it was.
Q. Your docks, wharves, and racks, and the other buildings would have been consumed by it?
A. I should think they would.
Q. Did you give any order to haul her out?
A. I think I did; I am not positive—either me or Mr. Curran.
Q. At the time the order was given you had ascertained that the fire could not be extinguished?
A. I was satisfied that it could not be.
Q. Could that boat have been scuttled where she lay in the slip?
A. No, sir.
Q. Why not?
A. We could not get to the water's edge to her.
Q. The sides of that boat under water, did they incline?
A. Yes, sir; they run off in this shape—flaring, (indicating the shape.)
Q. If she had been scuttled, was there depth of water enough in that slip to have extinguished the fire in the wood-work and joiner-work?
A. I know there is not. She would not have sunk. She was
80 full of iron tanks. She had nearly 200 iron tanks in her.
Q. When the Clarita towed her out, or commenced towing her out, where were you?
A. I was on the bow of the ferry-boat. When she commenced to tow her out, I was then on the Clara Clarita.
Q. Did you go with the Clara Clarita?
A. I went along with her.
Q. You were on board at the time the ferry-boat drifted against the bark?
A. Yes, sir.
Q. Were you on board at the time she drifted against the schooner?
A. Yes, sir.
Q. Did you see anything that could have been done that was not done to prevent the ferry-boat from drifting upon the bark or upon the schooner?
A. I think if there had been a chain got out in the first place it would not have happened?
Q. From where?
A. From the ferry-boat to the Clara Clarita.
(By the court:) To the ferry-boat?
A. Yes, sir.
Q. Had the Clara Clarita any chain on board?
A. I do not know.
Q. Did you ever know of boats being towed by chains?
A. Not in fair weather; I never did.
Q. Did you ever know of tug-boats using a chain-hawser?
A. I never knew them to use that.
Q. The only thing that occurs to you by which this getting foul could have been prevented was by a chain-hawser or something that was not combustible?
A. I think if she had had a chain she would not have fouled the bark.
Q. A chain instead of a rope hawser?

A. Yes, sir.

Q. Is a chain when it gets hot easily handled?

A. Not when it gets hot.

81 Q. When it gets hot would it not pull off the fastening?

A. Not if it is fastened on iron.

Q. Will not it depend upon what the iron is fastened to?

A. That will depend upon what the iron is fastened to.

Q. Your idea is, if she had had a chain-cable fastened to an iron cleat, and that had been fastened to something incombustible, the ferry-boat might not have got adrift?

A. If there had been an iron chain fastened to an iron cleat, and that cleat fastened to an iron vessel, she certainly could not have got away, but in this case the cleat remained there.

By the court:

Q. She had an iron cleat?

A. Yes, sir.

Q. What was that fastened to?

A. To the deck.

Q. A wooden deck?

A. Yes, sir.

Q. Was the Watt an iron boat?

A. No, sir; the Watt was a wooden boat.

Q. One of the witnesses spoke of the cabin being made of iron.

A. The cabins are of wood.

Mr. VAN SANTVOORD. The witness said of pine.

Q. There was no iron about her where she was attached?

A. No, sir; nothing but the fastening.

Q. Nothing there but this iron cleat?

A. Nothing but her fastening—this iron cleat.

By Mr. Van Santvoord, resuming:

Q. Where did you last see that iron cleat?

A. I saw that this morning—or one of them—one of the four—I could not say that it was this one.

Q. Where did it come from?

A. From the Watt.

Q. Did you take it off?

82 A. No, sir; some of my men did.

Q. Do you know what part of the Watt it was taken from?

A. From the bow.

Q. You do not know whether it was the cleat to which the hawser was attached?

A. No, sir, I cannot say; but there was a line attached to it like the one on the Clara Clarita, that was cut from the same cleat I have spoken of.

Q. Your ferry-boats tow vessels sometimes?

A. No, sir.

Q. Do not they ever do so?

A. No, sir.

Q. Do they tow each other?

A. Once in a while they tow each other; but very seldom, however. If they happen to break down in the river, they sometimes go to them and tow them in.

Q. Did you ever know a tug-boat to be furnished with any other hawser except the hempen hawser?

A. This was not a hemp hawser.

Q. Manila hawser?

A. I have seen them with both hemp and Manila hawsers.

Q. But you never knew a tug-boat to be furnished with chain-hawsers for towing?

A. No, sir, I never did.

Cross-examination by Mr. Owen:

Q. Where a tug-boat is used for towing burning vessels in that situation, what can be most safely used, a chain or a Manila hawser?

A. A chain is the only thing that will stand fire; a hemp hawser or Manila hawser will burn off.

Q. Had you a chain on board your boat?

A. There was a chain in the chain-box.

Q. Sufficient to have towed her?

A. Yes, sir, I should think it was.

Q. The cleat to which the hawser was attached, as I understand you, did not burn away?

83 A. No, sir.

Q. And part of the hawser you found attached to that same cleat?

A. That is, my men did. I saw the hawser.

Q. Did you see the hawser when it first parted?

A. I did.

Q. Did it burn apart?

A. I think it parted.

Q. How far into the stream was the ferry-boat at that time?

A. I don't think she was more than clear of the slip, handsomely clear. She might have been a length and a half, but I do not think she was any further than that.

Q. She was heavily water-logged—got to be very heavy?

A. No, sir.

Q. There was a good deal of water in her?

A. I don't think she had settled more than three inches; she might have settled a little more.

Q. Had you an anchor on board of the ferry-boat?

A. There was an anchor on board of her.

Q. Was there any difficulty in casting that anchor after you got her out?

A. Yes, sir; there was too much fire. You could not have done it.

Q. Do you think it was prudent to attempt to tow that ferry-boat with a hempen or Manila hawser?

A. That would be according to circumstances. For instance, if you started her out of the slip with a hawser to stop so as to keep the fire from communicating and to get chains to her, that would be one thing, and another thing would be to have got chains to her in the first place.

Q. Could you not have got a chain to her after you got her out of danger?

A. I do not think there was time.

Q. There was time to have taken a chain and fasten that to her before you started?

A. It might have been done.

84 Q. Was the heat at that end of the ferry-boat sufficient to have interfered with the handling of that hawser and using it, after it was made fast?

A. It was on the opposite side. The fire was heaviest on the port side.

Q. The chain might have been used?
A. It might have been made fast.
Q. Did you see the hawser when it parted the second time?
A. I think I did.
Q. What caused it to part on that occasion?
A. I couldn't say whether it burned or parted that time.
Q. Was that the same hawser that separated before?
A. I could not say that it was the same one, but it was one about the same size—the same dimensions.
Q. Did you observe whether the hawser was burned off the third time?
A. My opinion is that it did burn off the third time, but I am not certain. I know it parted, at any rate, or let go in some shape, whether it came from burning or whether it parted.
Q. Do you know whether the hawser that burned off the third time was the same size that you used the first time?
A. I think it was the same dimensions.
Q. When was the large hawser put on?
A. When under the schooner's bow.
Q. After that they succeeded in towing the ferry-boat on to the flats?
A. They pulled her from under the schooner's bow, and she soon after sunk.
Q. Do you think she could have been towed by that large hawser in the beginning?
A. I think she could have been straightened up the river with that hawser. It was a four-stranded hawser, with a hard into it—there is one there now. It is the same kind of line that parted that night.
Q. What appeared to be the character of the first that were used before the large one, as to age and use?
A. I think they had seen considerable use.
85 Q. Do you think they were suitable to tow a burning boat through the harbor of New York?
A. That would be rather a hard thing to answer?
Q. Give your judgment as a practical man.
A. There are times it might be done, and there are times it could not be done.
Q. Was it prudent to attempt to tow a burning vessel through the harbor of New York with these small lines?
A. I think the lines would have been good enough, provided they had been strong enough—that is, large enough.
Q. You think they were not strong enough?
A. I think they were not strong enough. The last one did not part.
Q. Let me ask you again. Did you take any command or charge of the navigation of the tug?
A. No, sir; I did not.
Q. By whose direction was the tug made fast when she broke the last line?
A. The captain's.
Q. Did you observe, during the time, any difficulty with the tiller-ropes or wheel-ropes, that the witness has spoken of?
A. I knew of it.
Q. What was it?
A. The wheel-ropes became jammed by being stranded, I should think.
Q. What effect had that on the steering of the boat?
A. They could not steer her.

Q. Did that cause any delay in getting up to the burning boat again to make fast to her?

A. Yes, sir; it did.

Q. Do you know where that injury occurred?

A. It occurred between the bark and the schooner.

Q. Could that have been repaired promptly, so as to have been serviceable, quicker than it was?

A. I do not think it could.

Q. After the hawser burned off the second time—that is, I mean the time she drifted into the schooner—could the tug-boat have advanced and assisted the schooner to get out of the way?

86 A. No, sir.

Q. Why?

A. Because she was disabled and in such a shape that she could not, on account of the tiller-ropes.

Q. (By the court:) That was after the hawser parted the third time?

A. Yes, sir.

Q. Were the tiller-ropes defective after the hawser parted the third time?

A. I should think not. I did not notice it, at any rate.

Q. Did you notice the character of these tiller-ropes? Were they proper and suitable?

A. They were ropes.

Q. Is that proper?

A. One strand had given away.

Q. (By the court:) Wound around?

A. No, sir; by loosing itself from the lay it jammed in the block.

Q. It would not run?

A. It would not run.

Q. (By the court:) One strand had worn away?

A. It had parted.

Q. Do you know what is the proper wheel-rope to be used on such an occasion?

A. I believe they are generally iron rods and chains around the barrel—around the wheel and around through the blocks.

Q. If she had chains at that time, do you think she could have got to the assistance of the schooner?

A. If she had had a chain she could have towed the boat clear in time.

By the court:

Q. Clear of the schooner?

A. Yes, sir.

Q. You mean she could have got to the boat, so that the boat would not have fouled the schooner at all?

87 A. Yes, sir; she could, I think. That was the delay more than anything.

By Mr. Owen, resuming:

Q. Did you observe how the ferry-boat drifted on the schooner?

A. I should think it was nearly broadside on, right in the wake of her wheel. If anything, she was a little furthest to the eastward—that is, one end of the boat.

Redirect examination, by Mr. Van Santvoord:

Q. This chain which you had on board your boat, was it an anchor-chain?

A. Yes, sir; a small anchor-chain.
Q. Where was that?
A. It was on one bow or the other; I cannot say which.
Q. Did you ever use that chain in towing a boat?
A. No, sir, I did not.
Q. Did it occur to you that there was any necessity to use that chain at the time?
A. I don't know that it did.
Q. You say that that chain was in a box?
A. It lies in a box.
Q. Is it in such a shape that it could be used as a hawser?
A. Yes, sir.
Q. What has it at the very end?
A. It has a clevice.
Q. Could it be attached as a hawser?
A. Yes, sir; by sticking the bight of the chain through it.
Q. What was the length of the chain?
A. I should think there was about 45 fathoms; no, there is only two shot—thirty fathoms. I think there is about two shot of it.
Q. How much time had elapsed between the discovery that the fire could not be extinguished in the slip and the directions to take this boat in tow?
88 A. I do not think it was more than three minutes—from three to five minutes.
Q. It was a very short interval?
A. A very short time.
Q. This matter of the chain—did it occur to you then?
A. At that time it did not.
Q. Did it ever occur to you except in the light of the event? On looking back, it occurs to you that if that chain had been used this casualty——
A. I saw it as soon as we got into the river.
Q. Before the hawser burned?
A. I cannot say that I did before the hawser burned.
Q. After the hawser burned?
A. After I got back on board of the Rumsey, then I thought of this chain.
Q. When did you get on board of the Rumsey?
A. While the tug-boat was lying by there, before the Watt sunk.
Q. What was the tug towing at the time?
A. She was lying still at the time, getting in the hawser that had been cut.
Q. After the ferry-boat sunk?
A. Yes, sir.
Q. After you got on board the Rumsey, this matter of the chain-cable occurred to you?
A. Yes, sir.
Q. That they might have saved all this disaster?
A. If they had taken their chains out then they could have saved it.
Q. No mention was made of any such thing at any time?
A. No, sir; I did not make any mention of it.

Recross-examination:

Q. Did you ask the captain if he had the power to tow her round?
A. He said he could.
Q. Did he ask you for your chain?

A. No, sir.

89 Q. Was the deck of your boat such as you could have got the chain safe before you started out of the slip?

A. Yes, sir.

Redirect examination:

Q. You say you do not know what end of the boat that chain was in?

A. No, sir; I do not know what side it was on.

Q. Do you know what end it was in?

A. I do not know now.

Q. At the time the order was given to take hold of this boat and she was taken in tow, could you have got from one end of the boat to the other?

A. I do not think we could.

THOMAS SMITH, a witness called on behalf of the New York Harbor Protection Company, being duly sworn, testifies:

Mr. VAN SANTVOORD:

Q. You were present at this fire?

A. Yes, sir.

Q. On what boat?

A. The James Rumsey.

Q. Where was she in reference to the Watt at the time the Watt was burning?

A. She laid on the Watt's port bow.

Q. Calling the York end the bow?

A. Yes, sir.

Q. In the manner represented in this diagram?

A. Nearly; a little more straight with the Watt.

(The diagram is marked Exhibit A. Page 128.)

Q. Do you know what was done to put out the fire on Watt?

A. I know we had one stream of water from the Rumsey.

Q. Were streams put on from other boats as well as the Clara Clarita?

A. The Chancellor.

Q. And what other?

90 A. That is all I know except the Clara Clarita.

Q. Where was the hose taken from your boat, the Rumsey?

A. Near amidships over the ladies' cabin, on the New York end of the Watt, leading over near the smoke-pipe down on the main deck in the hatchway, where they take in wood.

Q. At the time the fire was burning, where was the Watt?

A. Lying in the Christopher-street slip.

Q. What was on her starboard side?

A. The Patterson.

Q. Between the Patterson and her was what?

A. A rack.

Q. Of what?

A. Oak piles.

Q. Where was the Weehawken?

A. Along in the canal, alongside of the ferry-house.

Q. Next to that was what?

A. The Newark-street pier.

Q. And above that what?

A. The dry-dock.

Q. On the other side, with reference to the Patterson, where was the gas-tank?

A. The gas-tank was in the ferry-house nearest the Barclay-street slip.
Q. On the starboard quarter of the Patterson?
A. Yes, sir.
Q. The Hoboken lay on the other side?
A. Yes, sir.
Q. Then inside the slips what was there?
A. The ferry-houses.
Q. Connected with that were the Morris and Essex buildings?
A. Yes, sir.
Q. What was there, if the Watt should catch fire and burn, to prevent the burning of these racks and buildings on the dock, and the other boats?
A. There was nothing that I know of to prevent it.
Q. You were close enough?
91 A. She was lying right against the rack on one side and the Patterson on the other.
Q. Did you observe whether the fire from that boat was making progress, notwithstanding the efforts made by throwing water in it to extinguish it?
A. I think it was very fast.
Q. What made the difficulty?
A. The fire was up under the deck, on the lower side of the deck; and the water played in was on the bottom and could not reach up to the flame.
Q. Was there any means of reaching it without getting into the hold?
A. I think it was impossible.
Q. Why was it not possible?
A. It would burn a man up down there.
Q. It was full of flame?
A. Full of flame and smoke. It was so thick that a man could not stay there.
Q. That was the condition when direction was given to tow her out?
A. Yes, sir.
Q. Did you observe any flames burst out before she was hauled out?
A. I did.
Q. Where was it?
A. Under her guard on the port side, just forward of the wheel on the New York end.
Q. Was there an air-hole under that guard?
A. There was an air-streak about a foot wide, I think, nearly.
Q. Smoke coming out there?
A. I believe it did, dense.
Q. A dense volume?
A. Yes, sir; and flame, some time before they towed her out.
Q. Was your boat scorched?
A. Yes, sir; considerably.
Q. Could the boat have been scuttled in the place where she was?
92 A. I do not think she could have been easily scuttled to any effect.
Q. Was the water deep enough in there to render scuttling effectual for putting out the fire in the joiner work?
A. If the water had been deep enough she would not have sunk; she has iron tanks enough to keep her afloat under the main deck.
Q. Was there anything to do except to tow her out?
A. Or to let her lay and run the risk of burning the buildings up?
Q. That would have made a wide-spread conflagration?

A. It probably would.
Q. You did not go on this boat?
A. No, sir; I stayed on my own boat.
Q. How wide did you say that streak was in her guards?
A. I think nearly a foot, or nine inches—I do not know exactly.
Q. In width?
A. It was the whole length of the boat, except where the wheel is, running nearly forward. It did not run quite up to the bow.
Q. Is this diagram which has been produced substantially correct?
A. Any one acquainted with the situation will understand how it was.
Q. Would you recognize it?
A. With the exception that the Rumsey laid a little straighter than is here represented with the Watt.

Cross-examination by Mr. Owen:

Q. The Rumsey and Chancellor were the boats that came to assist in extinguishing the fire?
A. Yes, sir; they belong to the same company.
Q. They were under steam?
A. Yes, sir.
Q. What was the Patterson?
A. A ferry-boat.
Q. Did she have steam up?
93 A. No, sir.
Q. The Weehawken?
A. She is a ferry-boat.
Q. Did she have steam up?
A. No, sir.
Q. Then there were only three boats—the Patterson and the Weehawken and the Hoboken—did not have steam up?
A. The Hoboken was under steam.
Q. Then there were only two not under steam?
A. Yes, sir.
Q. Was there any difficulty in hauling those others out of danger, by those three boats?
A. No, sir; I suppose they could have been hauled out.
Q. Was there any difficulty in the Hoboken getting out herself?
A. No, sir.
Q. Then if you had taken them away from the James Watt there would have been no boats to be burned?
A. No, sir.

Re-direct examination:

Q. How long would it have taken to have got up steam?
A. The Patterson it would have taken a couple of hours, and the Weehawken about an hour.
Q. She might have been hauled out?
A. She might have been hauled out from the dock, but not very readily, by the ferry-boat. There might be danger of running afoul of the vessels anchored above the slip.
Q. But the ferry-racks and buildings could not have been hauled out?
A. They could not have been hauled out very well.

Re-cross-examination:

Q. Any one of the three boats that came in to assist could have hauled the other boats out of danger into the stream?
A. Yes, sir.

Adjourned to Monday, October 30th, 1871.

94 United States district court. Before Hon. S. Blatchford. In admiralty.

THE NEW YORK HARBOR PROTECTION Company
vs.
THE SCHOONER CLARA, HER TACKLE, ETC.

AUGUSTUS M. COX ET AL.
vs.
THE STEAM-TUG CLARA CLARITA.

NEW YORK, *October* 30, 1871.

The court met, pursuant to adjournment, at 11 o'clock, when proceedings were resumed.

HENRY DUNNING, a witness, called on behalf of the libellants, being duly sworn, testifies:

By Mr. Van Santvoord:

Q. What was your business in 1870?
A. Foreman of G. H. Ferris's ship-yard.
Q. Ship-carpenter?
A. Yes, sir.
Q. Did you have the general management of his business?
A. Yes, sir.
Q. Where is that ship-yard?
A. South Brooklyn, Red Hook Point, corner of Van Brunt and Elizabeth streets.
Q. Have you built ships and vessels?
A. Yes, sir.
95 Q. Made contracts for building?
A. Yes, sir.
Q. Estimated for building ships?
A. Yes, sir.
Q. Was the schooner Clara upon your ways in August, 1870?
A. Yes, sir.
Q. Did you make repairs on her made necessary by her burning?
A. Yes, sir.
Q. Did you examine her condition while she was on the ways?
A. Yes, sir.
Q. With what particularity?
A. We bored, to see if she was sound.

The COURT. What is the object of this testimony—has it reference to damages?

Mr. VAN SANTVOORD. It is only to prove the value of the vessel with reference to the salvage claimed.

Q. What was the value of that vessel when she was on the ways after she was burned?
A. Sixteen or seventeen thousand dollars, as near as I could judge.
Q. (By the court:) Before you touched her, before you made any repairs?
A. No, sir.
Q. You repaired the damage done by the burning?
A. Yes, sir.
Q. What was the amount of your bill for repairs?
A. It was between fifteen hundred and sixteen hundred dollars, that is as near as I can remember.

Q. Is the value which you have given to that vessel, while on your ways, in the condition she was, inclusive or exclusive of the repairs which you made upon her?

A. Inclusive; but in the condition in which she left the yard she had to go to the rigger and sail-makers. Her spars were burned some, and her rigging and sails were burned.

96 Q. (By the court:) The ultimate question is, what was her value at the time, and in the condition she was in, on your ways?

A. Sixteen or seventeen thousand dollars.

Cross-examination by Mr. Owen:

Q. Are you the owner of that yard or have you any interest in it yourself?

A. No, sir.

Q. You are foreman?

A. Yes, sir.

Q. Do you own any vessels?

A. No, sir.

Q. Have you ever bought or sold vessels?

A. No, sir.

Q. Do you know the tonnage of that vessel?

A. I forget; but I can tell by referring to the books.

Q. What repairs did you put on her?

A. We repaired the upper deck, and put in new stanchions between her fore and main hatch, clear around forward, new bulwarks, and we put several streaks of plank around the bow, bow-chocks, and hause pipes.

Q. Was that caused by the fire?

A. Yes, sir.

Q. Did you repair any part of the sails and rigging?

A. We did not.

Q. Were they destroyed by the fire?

A. Yes, sir; the captain says so.

Q. Did you put in any new masts?

A. No, sir.

Q. And bowsprit?

A. Yes, sir, a new bowsprit. We didn't put the bowsprit; he got it made by some man in New York.

Q. (By the court:) You didn't put a mast in?

A. No, sir.

Q. You say before the mast was in, and the bowsprit-sails, and rigging were repaired, she was worth sixteen thousand or seventeen thousand dollars?

97 A. Yes, sir.

Q. That is your judgment?

A. Yes, sir.

Redirect examination:

Q. What would it have cost to have built that vessel new?

(Objected to. Objection sustained. Libellants' counsel excepts.)

Mr. SANTVOORD. We offer to show what the vessel would be worth new, as a basis of getting at her value, by deducting the depreciation by use, and then deducting the amount of damage that was done.

(Evidence excluded. Libellants' counsel excepts.)

WILLIAM T. FRANCIS, a witness on behalf of the libellants, being recalled, further testifies:

By Mr. Van Santvoord:

Q. Describe the steering-gear on this tug.

A. The steering-gear from the pilot-house to the aft part of the deck are iron-rods.

By the court:

Q. What was the distance?

A. It might have been seventy-five or eighty feet.

Q. It was an iron rod?

A. Yes, sir; from that to the tiller was a chain. From the forward part of the rod to the pilot-house, three or three and a half fathoms, was rope.

By Mr. Van Santvoord, resuming:

Q. How did this rope work?

A. Round the barrel of the wheel.

Q. It went out on the house on each side?

A. It went out on each side, so that the rod would not get in the chock and bend it.

Q. Did it go through sheaves?

A. Through sheaves.

Q. And it was attached to the rod on each side?

98 A. Yes, sir.

Q. Was there an additional means of steering that boat?

A. Yes, sir.

Q. What?

A. We had a spare tiller made a purpose.

Q. To be used where?

A. To be used on the rudder, in case anything gave out.

Q. Was your attention called to any derangement in the steering-gear at the time of which Mr. Chase has spoken?

A. Yes, sir; I knew there was something the matter with the steering-gear.

Q. Was your attention called to it at the time?

A. Yes, sir.

Q. Explain what that was.

A. It was a strand in the rope between the pilot-house and the chock on the side of the boat, on the plank sheer.

Q. (By the court:) Inside the pilot-house, or outside?

A. I could not exactly say whether it was on the outside. He may have hove the wheel and made it outside. It was outside when I saw it.

Q. Where was the chock?

A. One was right in the edge of the pilot-house, and the other on the outside of the boat.

Q. How far was one from the other?

A. The chock may have been four or five feet from the side of the pilot-house.

Q. It was a broken strand?

A. It broke one strand; it was a three-strand rope.

Q. One of the three strands broke?

A. Yes, sir.

Q. What effect did that have?

A. It choked in the chock, so that it would not go backward or forward.

Q. The chocks were four feet apart?
A. I think they were four feet apart.

By Mr. Van Santvoord, resuming:

Q. Was it in both chocks, or one?
99 A. In one; I don't know which one it was.
Q. How did that happen?
A. The strain on the wheel backward and forward broke one strand of the rope so that it stranded.
Q. Was that repaired?
A. Yes, sir.
Q. How long did it take to repair it?
A. It didn't take more than a minute.
Q. Have you a rope there?
A. Yes, sir. (Produced a piece of rope a foot long, with one strand broken, which is shown to the court.) This was brought up, and that was brought up, and the result was that we had it in this shape. (Showing the manner of repairing.)
Q. (By the court:) Is this the identical rope?
A. No, sir; that was a little bigger than this, and it was a softer rope than this, but it was on the same plan. It took a minute or so out there while we were in a hurry to get it done; I have done that in a good deal less.
Q. How long did it take to repair that?
A. I say, about a minute—it might have taken a minute.
Q. Were you detained at all by that?
A. I don't think we were.
Q. When did that happen?
A. That happened when we were getting clear of the bark the second time the hawser parted.
Q. Before the hawser was attached the third time?
A. Yes, sir.
Q. Was there any difficulty with the steering gear after the third hawser parted?
A. No, sir.
Q. Or any time while the ferry-boat was adrift?
A. No, sir; we had no trouble with it; that was the only time.
Q. What was the size of this smaller hawser?
A. I said they were four and a half inch, at the time I was examined, but they were five-inch ropes.
Q. Were they such hawsers as you had been accustomed to haul ships with?
100 A. Yes, sir, a great many times. We had hauled out ships of two or three thousand tons.
Q. Ships of the Pacific Mail Steamship Company?
A. Yes, sir. I have towed some of them with the same ropes from Canal street to the Tobacco dock in Hoboken.
Q. (By the court:) With that hawser?
A. Yes, sir.
Q. You don't mean with this identical hawser?
A. I mean that same size. We never used to let the ropes get old, at all. We make out a requisition and get new ones right away.
Q. The small-sized hawsers, had they been much used?
A. No, sir, I don't think they had. I don't think they had been used more than three or four weeks. The hawsers were good.
Q. New hawsers?

A. Very nearly new. One of them in particular I guess was pretty nearly new.

Q. And strong?

A. And strong.

Q. Do you know what hawser was attached to the ferry-boat after the hawser had broken the second time?

A. The big one.

Q. What was the size of that?

A. Seven-inch.

Q. That was stronger than the others?

A. Yes, sir.

Q. Was that the hawser that burned or pulled out, as you testified, when the ferry-boat got adrift?

A. Yes, sir, got afoul of the schooner.

Q. Was that the same hawser that was used to attach to the ferry-boat the fourth time after she was foul?

A. Yes, sir; that was the same one.

Q. What was done with that hawser when you left the ferry-boat?

A. It was coiled up on the deck.

Q. Was it good?

A. Yes, sir; we cut it when we left the ferry-boat sinking. We cut it on our rail.

101 Cross-examination by Mr. Owen:

Q. What had you been engaged in for three or four weeks immediately preceding this fire, with your tug?

A. Looking out for fires, and towing around the river.

Q. You had not been engaged in towing any burning vessels previous to that time?

A. No, sir; there was none to tow.

Q. Were any large vessels towed, previous to that time, during that three weeks?

A. Not that I know of.

Q. When and where was it that you towed large vessels of some thousands of tons?

A. A great many times.

Q. What vessels?

A. The Henry Chauncey, the Rising Star, the New York, the America, the Great Republic, and all the rest of them.

Q. That was while you were employed by the Pacific Mail Steamship Company?

A. No, sir; we have towed some since we were employed by them.

Q. Have you towed any since you were employed by this new company?

A. Yes, sir.

Q. What one?

A. I cannot exactly name them.

Q. Had your tiller-rope ever broken before?

A. Yes, sir.

Q. When?

A. In the East River. I can't remember the day.

Q. Did you repair it in the same way?

A. Yes, sir.

Q. Was it necessary to take it out of the sheave to repair it?

A. No, sir.

Q. Did you assist in any manner in repairing it?

A. Yes, sir.

102 Q. What assistance did you render?

A. I lent a hand to do it.

Q. Who helped you?

A. I think it was the wheelsman.

Q. What is his name?

A. Mason.

Q. Where was it repaired; on the insideor outside of the pilot-house?

A. At which time?

Q. I am speaking of the time when you were towing th[illegible]urning vessel.

A. I don't know whether I did anything to that or n[illegible]

Q. Did you assist in repairing the tiller-rope on the occasion of the towing of this burning vessel?

A. I don't think I did.

Q. Who repaired that?

A. I think it was Mason, the wheelsman, and Kelland, who was a deck-hand.

Q. Was that repaired inside or out?

A. I think it was repaired on the deck.

Q. Was it necessary to take the rope out of the sheave on that occasion?

A. No, sir.

Q. Was it necessary to steady the wheel in any manner during that time; could it be steadied?

A. Yes, sir; it could be hove hard over the contrary way.

Q. And held there while repairing?

A. It could be held, if we wanted it. I don't remember whether it was held there or not.

Q. Who held the wheel during the time you were repairing the rope?

A. I think I did it myself.

Q. Don't you remember?

A. No, sir; not exactly; I did not. The wheel-ropes were slack enough to have done that without anybody to hold the wheel.

Q. Where did you keep this large hawser?

A. On the rack.

103 Q. Where is that?

A. On the stern of the boat.

Q. When you arrived at the burning schooner, was there any other boat there at the time?

A. No, sir.

Q. How soon after that did the other boats come?

A. Steamboat or small boat?

Q. Steamboat.

A. I cannot say how long afterward.

Q. Was there any other boat came there?

A. A ferry-boat came there.

Q. How many?

A. One.

Q. Did that boat throw water?

A. Yes, sir; she put on a stream of water.

Q. Do you know whether she came before or after you?

A. I know she came after. She came alongside of us. She could not very well get inside of us.

Re-direct examination:

Q. Do you recollect whether the hawser was attached the third time, or was hauled in onto the deck, before it was attached the fourth time to the ferry-boat?

A. No, sir; it was hauled in onto the deck the fourth time altogether.

Q. After it was cut?

A. After it was cut.

Q. Was it hauled in after it was parted the third time, so that you could see the end?

A. No, sir.

By the court:

Q. I don't see how you could have fastened it the fourth time, if it was not hauled in the third time?

A. The boat picked it up in the water and took and fastened it. It was a Manila hawser.

Q. A little boat picked it up and carried it to the ferry-boat?

A. Yes, sir.

104 Q. That was while the ferry-boat was afoul of the schooner?

A. Yes, sir.

JOHN M. MASON, a witness on behalf of the libellants, being recalled, further testifies:

By Mr. Van Santvoord:

Q. You have testified that you were wheelsman?

A. Yes, sir.

Q. Do you recollect any accident happening to the steering-gear of the tug?

A. Yes, sir.

Q. What was the nature of the accident?

A. One of the strands of the wheel-rope became parted, and the yarns jammed in the sheaves of the block.

Q. In that part of the wheel between the pilot-house and which sheave?

A. The sheave on the plank sheer of the boat, where the rope turned to go aft.

Q. Did you assist in repairing it?

A. Yes, sir.

Q. How was it done?

A. It was done by just taking the end through and cutting it off, on each end.

Q. How long a time did it take?

A. Probably a minute or a minute and a half, at the outside.

Q. When was that?

A. I think it was while we had the third hawser, and before or just before we took the third hawser to her, or while we had the third hawser to the ferry-boat. I don't recollect which.

Q. Was it before the hawser parted the third time?

A. Yes, sir; I am positive of that.

Q. Was there any difficulty with the steering-gear after the third hawser parted, and the ferry-boat began to drift?

A. No, sir; none at all.

Q. There was no delay from any such cause?

105 A. No, sir.

Q. Had you seen the ropes that were used on board this tug, and handled them any time before?

A. Yes, sir.

Q. You had seen them, and you had handled them?

A. Yes, sir.

Q. What was the character of these ropes?

A. They are five-inch ropes, very near new. They were not over six weeks old, either of them. One of them was newer than the other, and had not been used. There were two used to make the boat fast, and the other was a spare one.

Q. What sort of hawsers were attached to the boat while in the slip?

A. These five-inch hawsers.

Q. What one when the boat was hauled off the bark?

A. A five-inch hawser then.

Q. What sort of a hawser was taken to her the third time?

A. The third time, I think it was a seven-inch hawser?

Q. Did you see the ends of either of these hawsers when brought in from the ferry-boat?

A. Not at the time, but I saw them the next day.

Q. Did you notice the ends of these small hawsers?

A. I noticed the next day they were burned.

Q. That is, the two hawsers first used?

A. Yes, sir.

Q. Did you see the end of the last hawser that was attached the fourth time to the ferry-boat after it parted?

A. No, sir; I did not see the end of it until the next day, then I saw where it had been cut.

Q. But you did not see the end which had been attached to the ferry-boat when it parted from the ferry-boat, previous to the ferry-boat drifting on the schooner?

A. No, sir.

Cross-examination by Mr. Owen:

Q. When the hawser parted the first time who attached the hawser again to the ferry-boat?

106 A. I think one of the deck-hands helped, a fireman or one of the ferry employees.

Q. One of your deck-hands?

A. Yes, sir.

Q. Helped the fireman of your boat?

A. Either one of the fire department, or one of the employees of the ferry company.

Q. How did they do that?

A. They went to the bow of the ferry-boat on a ladder from our boat.

Q. Did they attach the rope to the same bitt, or whatever it is called, that they had attached it to before?

A. I cannot say whether it was the same one or not. It was one similar.

Q. Who attached the line to the ferry-boat the second time?

A. That was the second time I am speaking of when they went with it on the ladder. The first time it was made fast was when the ferry-boat laid in the slip; I did that.

Q. And it parted afterward?

A. Yes, sir.

Q. Who made it fast then?

A. One of the deck-hands and this strange man.

Q. (By the court.) That was at the bark?
A. Yes, sir.
Q. And the next occasion, which would be the third time, who made it fast?
A. Strange men to me—men in the boat—men in the small boat—in this life-boat.
Q. Went off to her?
A. Went off from our boat, either the firemen or men in the employment of the ferry company.
Q. Did you see them carry that line?
A. I saw them go in the boat.
Q. Who made the hawser fast on the next occasion?
A. The same parties, I believe—men in the boat.
Q. You saw it done?
A. By men going to it in the boat.
Q. You did not assist in making it fast at any time?
107 A. Except the first time when she lay in the slip.
Q. What particular backing and going forward was there connected with the navigation of your tug from the time you first made fast to the boat in the slip?
A. Considerable backing and filling to get around in position, and get hold of the boat; after we became separated, we had to go back and fill to get hold of her.
Q. And when you got hold of her you moved off regularly, I suppose?
A. Yes, sir.
Q. When you came back to the schooner to put out the fire, had any other ferry-boat reached her?
A. Yes, sir.

Redirect-examination:

Q. Do you know whether there is any objection to the use of chains around the barrel of a wheel while boats are going in and out of the harbor?
A. Yes; we don't like to put a chain in the pilot-house on account of the attraction of the compass.
Q. Where boats are in that service, what is usual and regular in reference to the material to be used about the barrel of a similar wheel?
A. It is a usual thing to have ropes; there are some few that use hide rope.

PATRICK GANNON, a witness called on behalf of libellant, being duly sworn, testifies:

By Mr. Van Santvoord:

Q. Were you one of the deck-hands on the Clara Clarita, in August, 1870?
A. Yes, sir.
Q. At the time she went over to Hoboken?
A. Yes, sir.
Q. And towed out the ferry-boat?
A. Yes, sir.
Q. Had you seen and handled those tow-ropes?
A. Yes, sir, I had.
108 Q. How long had you been on board of the Clara Clarita?
A. I guess I had been there eight months.
Q. Then you were a deck-hand on her while she was in the employment of the Pacific Mail Steamship Company?

A. Yes, sir.

Q. Had you often handled those hawsers which were used on the night this ferry-boat was towed out?

A. Yes, sir, I had.

Q. What was their character?

A. The hawsers were in good condition, pretty near new. They had been used, I believe, four or five weeks.

Q. Did you see the ends of the hawsers that were used in towing the boat out from the end of the slip, and of the hawser that was used in towing the ferry-boat off from the bark?

A. Yes, sir, I did.

Q. You saw them at the time they were hauled in?

A. Yes, sir; they were burned.

Q. Those two hawsers were burned?

A. Yes, sir.

Q. Did you see the end of the third hawser that was attached?

A. No, sir; I don't believe it came aboard.

Cross-examination by Mr. Owen:

Q. Do you know when these hawsers were purchased?

A. I do not know exactly.

Q. Do you know what use they had been put to?

A. Yes, sir; they had been used for towing.

Q. Were they kept with the large hawser—in the same place?

A. No, sir, they were kept in their own place.

Q. Where was their place?

A. There is generally one or two of them up in the front—at least one in the front and one in the stern—one in the bow and one in the stern.

Q. Where was the large hawser kept?

109 A. It was kept in the stern.

Q. Do you know why the large hawser was not used in the first place in the dock.

A. They thought these others——

Q. Have you any knowledge?

A. No, sir, I have not.

Q. Do you know how many steamboats there were assisting in putting out the fire on the schooner?

A. We were the first one there, and commenced to play on the schooner; then this ferry-boat came and stayed for some time, and then went away.

Q. The ferry-boat played on the schooner also?

A. A little while—not very long.

WILLIAM KELLAND, a witness called on behalf of libellants, being duly sworn, testifies:

By Mr. Van Santvoord:

Q. Were you a deck-hand on the tug-boat Clara Clarita in 1870?

A. I was.

Q. At the time she went to Hoboken?

A. Yes, sir.

Q. And towed the burning ferry-boat out of the slip?

A. Yes, sir.

Q. Did you see the end of the first hawser after it parted from the ferry-boat?

A. Yes, sir.

Q. What was its condition?
A. It was burned.
Q. Did you see the end of the second hawser?
A. I did.
Q. What was its condition?
A. That was burned also.
Q. Do you know what hawser was taken to the ferry-boat, after the second burning of the hawsers?
A. The third time the hawser was passed, it was the seven-inch hawser, always coiled up in the stern of the Clara Clarita.
110 Q. Did you assist in taking that hawser?
A. I did.
Q. Was that same hawser used the fourth time?
A. It was.
Q. Had you handled these hawsers often?
A. I had.
Q. What was their condition?
A. There were four hawsers, three of them five-inch and one seven or eight inch; I could not say which. Of the three five-inch hawsers, one of them was brand new. The line had never been used before. The other two were brought aboard at the same time, and had been used very little—very few days. They were nearly new. The big hawser was hardly worn any to speak of.

Cross-examination by Mr. Owen:

Q. Did you assist in making the hawser fast?
A. I did, each time.
Q. Did you make it fast at the same place, each time?
A. No, sir; the boat turned around the second time, and we made it fast at the other end.
Q. To what did you make it fast?
A. It was passed the second time through one of the chocks, and hitched twice. I passed the hitches myself.
Q. (By the court:) The other end of the ferry-boat.
A. The other end of the ferry-boat—the end that had not got afire.
Q. How soon after you started out from the slip did the fire break out?
A. Shortly after we got out from the slip she was enwrapt in flames. As far as I could see, all her joiner-work took fire.
Q. How far had you got out then?
A. A very little ways. I should judge 150 to 200 yards outside the ferry-slip.
Q. Had you begun to swing up the river?
A. Yes, sir, a very little.
111 Q. The fire didn't break out until you begun to swing around?
A. I don't think we had hardly begun turning round. I do not think our wheel was putting the boat around to the tide up the river.
Q. When the fire broke out?
A. Yes, sir.
Q. Where did it break out?
A. I think it took the whole light joiner-work at once, pretty much. It worked to the end, but it began amidships.
Q. Was it an iron cleat or a wooden cleat on the ferry-boat?
A. I think it was an iron cleat; in fact I know it was.
Q. After this did you make fast to the same end of the ferry-boat?
A. No, sir; at the other end.

Q. After you changed, did you continue to make fast to that end?
A. Not to the end in the first place. It was made fast a little nearer amidships—the next chock. I think there were two on the ferry-boat.
Q. What time was that?
A. That was the third time it was made fast.
Q. Which side of the ferry-boat, as you were going along—the starboard or port?
A. She was very nearly ahead of us—that is, lapped on to her. It was the port side, I think.
Q. What length of hawser did you tow by?
A. I think 75 fathoms—very little more, if anything.
Q. How long after your hawser parted the third time was it before the boat drifted down upon the schooner?
A. Five or six minutes, I think.

Redirect examination:

Q. Did you take the hawser to the ferry-boat the third time it was taken—that is, after the hawser burned the second time?
112 A. I assisted to do so.
Q. The big hawser?
A. Yes, sir; the big hawser.
Q. Did you follow it to the ferry-boat?
A. No, sir; I offered my services to those in the boat, but they would not accept them. The boat was crowded, and they had sufficient without me.
Q. Who were they?
A. They wore the uniform of the Hoboken Fire Department, and I think one or two belonged to the Ferry Company.
Q. You offered your services?
A. I did, by Captain Francis's orders.
Q. They declined to accept them?
A. They did.
Q. The crew that took the hawser belonged to the Ferry Company and the Fire Department?
A. Yes, sir.

Recross-examination:

Q. You don't know who took the hawser?
A. I cannot say I am personally acquainted with the party.
Q. You did not know their names?
A. I don't know any of them.
Q. Have you seen them in court here?
A. I have not been in court but the first and second days.
Q. Were they here then?
A. I did not see them.

Libellants rest.

AUGUSTUS M. COX, a witness called on behalf of the claimants, being duly sworn, testifies:

By Mr. Owen:

Q. Are you one of the owners of the schooner Clara?
A. Yes, sir.
Q. How long had you been part owner?
113 A. It is two years the 25th of last July, I think. I will not be positive.
Q. Were you master also?

A. Yes, sir.
Q. In what trade was she engaged?
A. The coal trade, between Georgetown and Baltimore and New York.
Q. How large a vessel is she?
A. She is from 350 to 360 tons.
Q. She is a two-masted schooner?
A. Yes, sir.
Q. When did you arrive in this port with a cargo before the fire?
A. I disremember the date.
Q. Where did you discharge that cargo?
A. I don't know positively whether at Thirty-second or Thirty-first street. It was the Hudson River Railroad depot, at any rate.
Q. After you had discharged where did you proceed with your vessel and anchor?
A. We anchored right abreast of the dock, in the river, about half of the way across, or it might have been more than that.
Q. Was that the same day the evening of which it was burned?
A. It was in the afternoon we hauled off, and at night she was burned.
Q. Were you on board that night?
A. Yes, sir.
Q. What time did you turn in?
A. About half past nine.
Q. Was any light set?
A. Yes, sir.
Q. Where and how?
A. In the starboard fore-rigging; I suppose, probably, 15 or 20 feet high from the deck.
Q. Did you see that light after the fire?
A. Yes, sir.
Q. Was it burning still?
114 A. Yes, sir.
Q. What anchor had you out?
A. The small anchor—the port anchor.
Q. How many fathom of chain?
A. About 20 fathom.
Q. How much chain had you below—what was the length of the balance of the chain?
A. Sixty fathom, altogether.
Q. Was there any person left on deck that night?
A. Yes, sir; one man.
Q. Was he staying as a watch on deck?
A. I don't think he was staying as a watch. I cannot tell.
Q. Is it usual or customary for vessels of your size to have an anchor-watch?
A. No, sir; not there.
Q. How was the weather that night?
A. The weather was clear; the wind was to the southward—south-southwest.
Q. Any prospect of a storm?
A. No, sir.
Q. It was a light, starlight night?
A. Yes, sir.
Q. Have you ever yourself been accustomed to have an anchor-watch when you lay at anchor here?

A. No, sir.
Q. Nor other schooners, to your knowledge?
A. No, sir; I have known them to keep a watch during the war, when loaded with hay, but at no other time.
Q. What first called your attention to the burning boat?
A. I heard somebody calling "aboard the schooner."
Q. Where were you at that time?
A. I was in my berth.
Q. What did you do?
A. I ran out.
Q. When you got out what did you see? Did you have on your clothes?
A. No, sir; I had my shirt on.
Q. Who ran out with you?
115 A. The mate, who came shortly after me, but not with me.
Q. The rest of the crew were forward?
A. Yes, all but the cook.
Q. (By the court:) Where was he?
A. In his berth.
Q. In the state-room with you?
A. Not with me, but in his state-room.
Q. Where was this man you left on deck?
A. He was lying on the centre-house asleep, when I got out.
Q. He was on deck when you came out, and you saw him?
A. Yes, sir.
Q. How far was the burning boat from you at that time?
A. She was right under the end of our jib-boom; she had not collided with us; she had not struck when we got on deck.
Q. How did she drift down upon you—what part of her struck you first, do you think?
A. Right in the centre of her, as near as I can tell.
Q. Your jib-boom took her centre?
A. Yes, sir.
Q. What effect did that have?
A. She stayed there and burned.
Q. What did she set fire to first?
A. She set fire to our head-sails, rigging, jib boom, bow-sprit, the vessel's hull, the foremast, and the foresail.
Q. How long did she hang on to your vessel before getting off?
A. I cannot tell exactly; at any rate, while we were gone for an axe on board of the other boat, and back again; I suppose it might have been five minutes, and it may have been more. It was all of five minutes.
Q. What was the first thing you did on the schooner when you saw the condition of things?
A. The first thing I did was to lower the boat, and go for an axe to scuttle the vessel.
Q. Did you all get into the boat?
116 A. Yes. The rest of the crew came into the boat. I and the mate got over first.
Q. In what direction from you did the tug-boat lie at the time?
A. She laid to the westward of us—south-westward like.
Q. How far did you have to row?
A. I could not exactly tell—no further than from here out to the street.
Q. Did you get an axe?
A. Yes, sir.

Q. Did you tell them what you wanted to do with the axe?
A. Yes, sir.
Q. What?
A. I wanted to scuttle the vessel.
Q. How did it happen you had no axe?
A. The axe was forward, I suppose.
Q. Had you an axe?
A. Yes, sir. The axe was broken the day before.
Q. It was forward where the fire was?
A. Yes, sir.
Q. How broken?
A. There was one-third of it broken out of the corner by a flaw in it.
Q. So that you had no axe to scuttle her with?
A. No, sir.
Q. When you told them that you wanted an axe to scuttle the vessel with, did you at that time intend to abandon the boat, or go back to her?
A. Go back and scuttle her.
Q. What passed between you and the captain of the tug, or anybody on board?
A. I don't know whether it was the captain or not, but some one told me not to scuttle the vessel; that they would put the fire out.
Q. Then you returned on board of your schooner?
A. Yes, sir.
Q. How did you do, lay around or go aboard of her?
A. I went aboard of her.
117 Q. All of you?
A. Yes, sir; all but one man, who was the negro cook, who staid in the boat.
Q. Were you on board at the time the tug came back to the schooner?
A. No, sir.
Q. Where were you?
A. I went down in the life-boat again.
Q. Why had you left the deck?
A. I had valuable things I wanted to take care of. There were other boats around—river boats—and I wanted to attend to those things.
Q. Had you left the schooner with any intention of not returning to her?
A. No, sir.
Q. How many steamboats assisted in putting out the fire?
A. Two.
Q. Which arrived first and began to assist you first?
A. I cannot tell; I disremember about that; but I think the James Rumsey got her hawser on ahead of the other boat; I will not be positive, but I cannot tell.
Q. How long did they play on the fire, do you think, before they got it down?
A. The James Rumsey played on the fire until she got it subdued, until the blaze was down, and then she went away.
Q. Did the other remain longer?
A. Yes, sir.
Q. After the fire was subdued, what was done with your schooner?
A. She still laid there.
Q. At anchor?
A. With both anchors.
Q. It has been said here that, lying at anchor as you were with your

schooner, and putting the wheel one way or the other and sheering the schooner, could have avoided this burning vessel?

A. She could not.

118 Q. State why.

A. She had not enough chain; and even if she had, she could not have done so with that strength of the tide. She could not have taughtened up that chain to have sheered her any distance.

Q. Would she have sheered as readily as a loaded vessel?

A. No, sir.

Q. Suppose you had been on deck with a sufficient number of hands, could you have slipped the cable?

A. Not very well; they were shackled together. We could have slipped it, of course.

Q. What time do you think it would require?

A. I cannot tell how long it would have taken to take the bolt out of the shackles.

Q. Was there anything you could have done if you had been on deck by which you could have avoided that burning boat?

A. No, sir; if we had been on deck, we would have supposed the boat that had the burning raft in tow was taking care of her.

Q. Had you returned to the schooner with ax before they came and made fast to the ferry-boat?

A. Yes, sir.

Q. What interest had you in the vessel?

A. I owned one quarter of her.

Q. Was that a common interest, or a captain's interest, as it is called?

A. A captain's interest. I bought it as a captain's interest. I bought it from the other captain.

Q. Had any portion of that vessel been sold within a few months previous?

A. Yes, sir.

Q. What proportion?

A. One-quarter of her, three months before.

By the court:

Q. Do you mean your quarter?

A. No, sir.

Q. What did it bring?

119 (Objected to, as being too remote to bear upon the question of value. Objection overruled. Libellant's counsel excepts.)

A. At the rate of $8,000.

By the court:

Q. Do you mean one-quarter sold for $8,000?

A. No, sir. One-quarter sold for $2,000, which makes it at the rate of $8,000 for the whole.

Q. What do you think the vessel was worth just before the accident? (Objected to. Question withdrawn.)

Cross-examination by Mr. Van Santvoord:

Q. What were the circumstances of the sale of that quarter—who sold it?

A. It was parties in Philadelphia; I forget their names.

Q. Do you know who sold it?

A. I have seen the man, but I have forgotten. I could tell by looking at the papers.

Q. The sale was made in Philadelphia?

A. Yes, sir.

Q. What induced it? Do you know?
A. No, sir, I do not.
Q. Do you consider yourself as competent a seaman as the mate?
A. I do not know much about his skill.
Q. I mean the mate of your vessel?
A. He has been going to sea longer than I have, but I consider myself competent.
Q. But he is more competent?
A. I do not know whether he is or not. Sometimes when a man goes to sea too long he gets weather-wise.
Q. If he could have sheered that vessel in that tide, and slipped the cable, could you have done it?
A. I do not think I could have done it. I do not know. He might think he could.
Q. When you came out, did I understand you to say that this man who had been left on deck was asleep?
120 A. He was lying down. I suppose he was asleep.
Q. Where was the rest of the crew?
A. One man was lying in the forecastle, as I understood afterward.
Q. Did you see anybody?
A. No, sir; I did not see anybody.
Q. Where was the other?
A. I suppose he was there. I did not see only this one man.
Q. Who was this man who was on deck, and slept on the centre-board—was that one of these Germans?
A. He was not asleep on the centre-board. I cannot say that he was asleep, but I suppose he was, on the centre-house.
Q. Was that one of these Germans who had come on board?
A. No, sir.
Q. Who was he?
A. He was a sailor.
Q. How long had he been on that vessel?
A. I don't remember now, but he had been some four or five trips.

By the court:

Q. This man you say was asleep on the centre-house; was he the man who had hallooed?
A. No, sir.
Q. Who was he?
A. I suppose it was one of the men on board the James Rumsey, the ferry-boat that steamed up.
Q. But you said a man hallooed, "On board the schooner?"
A. "Aboard the schooner;" that was the words they said.
Q. Who do you think it was—some one on the James Rumsey?
A. Some on the James Rumsey, because she was steaming up close to us.
Q. At that moment?
121 A. Yes, sir; and I came out.
Q. She was nearer to the burning ferry-boat?
A. No, sir.
Q. Do you remember whether it was on the James Rumsey or the tug-boat?
A. I cannot say, but I think it was on the James Rumsey.

By Mr. Van Santvoord, resuming:

Q. At the time the tug Clarita was playing on your boat, when you saw her, on which side of you was she?

A. She was on the starboard side.
Q. Was she lashed to your starboard side?
A. Forward she was. She had a line running out forward.
Q. When the James Rumsey came there, was she not outside of the tug?
A. Yes, sir, at first; and then she went on the other side.
Q. On the port side?

Redirect-examination:

Q. About how far did they tow the ferry-boat off from you before she sank?
A. I don't know; but I should think from what I could see that when she sank she was 300 or 400 yards—it may be 500 yards.
Case closed.

122 At a stated term of the district court of the United States of America for the southern district of New York, held at the United States court-rooms, in the city of New York, on Wednesday, the fifteenth day of November, in the year of our Lord one thousand eight hundred and seventy-one:

Present: The Honorable Samuel Blatchford, district judge.

THE NEW YORK HARBOR PROTECTION COMPANY
vs.
THE SCHOONER CLARA, ETC. } 23—409

This case having been heard on the pleadings and proofs, and argued and submitted on briefs and points by the advocates for the respective parties, and due deliberation being had in the premises, it is now ordered, adjudged, and decreed by the court, that the libel filed in this action be, and the same hereby is, dismissed, with costs to be taxed against the libellants.

And it is further ordered, that unless an appeal be taken from this decree within the time limited and prescribed by the rules and practice of this court, the stipulators for libellants' costs pay into the registry of the court the amount of their stipulation, and that the clerk distribute the proceeds in satisfaction of the costs, as taxed.

SAMUEL BLATCHFORD.

(Indorsed:) Vol. 23, No. 409. United States district court for the southern district of New York. The New York Harbor Protection Company *vs.* The Schooner Clara, etc. C. Van Santvoored, proctor for libellants. Final decree: dismissing libel with costs. Filed the 15th day of November, 1871.

123 United States district court, southern district of New York.

THE NEW YORK HARBOR PROTECTION COMPANY, libellant,
against
THE AMERICAN SCHOONER CLARA, HER TACKLE, etc.; Augustus M. Cox and others, claimants.

Take notice that the New York Harbor Protection Company, libellant, hereby appeals to the next circuit court of the United States for the southern district of New York, in the second circuit, from the whole and every part of the decree of the district court, for said southern cir-

cuit, made and entered in this cause the fifteenth day of November, 1871, in favor of the claimants of said schooner Clara.

New York, December 14, 1871.

Yours, etc.,

C. VAN SANTVOORD,
Proctor for Libellants.

To GEORGE F. BETTS, Esq., *Clerk.*
OWEN, NASH & GRAY, Esq's.,
Proctors for Claimants.

(Indorsed:) Vol. 23, No. 409. United States district court, southern district of New York. The New York Harbor Protection Company, libellants, against the American schooner Clara, her tackle, etc. Notice of appeal. C. Van Santvoord, proctor for libellants. Service of a notice, of which within is a copy, is hereby admitted. New York, December 14, 1871. Owen, Nash & Gray, proctors for claimants. Filed
124 December 22, 1871.

Circuit court of the United States for the southern district of New York.

THE NEW YORK HARBOR PROTECTION COMPANY, libellants and appellants,
against
THE AMERICAN SCHOONER CLARA, HER TACKLE, etc., Augustus M. Cox and others, claimants and appellees.

To the honorable the circuit court of the United States for the southern district of New York.

The petition and appeal of the above-named appellants showeth: That on or about the thirtieth day of August, 1870, the above-named libellant filed its libel in the district court of the United States for the southern district of New York, against the American schooner called the Clara, her tackle, etc., and against all persons intervening for their interests therein, in a cause of salvage, civil and maritime, in which libel it is alleged, and praying as therein contained, and to which the petitioner refers for its contents, that thereafter, on or about the eighth day of October, 1870, the said claimants, having executed the necessary stipulations for costs and value, did file their claim and answer, alleging as therein contained, and insisting that the said schooner was not liable to pay any salvage, as claimed by said libellant, and praying that said district court would pronounce against the said libel and condemn the libellant in costs, as will more fully appear on reference to said answer, and to which, for the contents thereof, this appellant asks leave to refer.

That thereafter the said cause came on to be tried and to be heard
125 before the Honorable Samuel Blatchford, judge of said district court, on the twenty-fourth, twenty-seventh, and thirtieth days of October, 1871, upon the allegations and proofs adduced by the respective parties; and the said judge having advised thereon, on or about the fifteenth day of November, 1871, made a final decree, dismissing said libel with costs to be taxed, and which were thereafter taxed at the sum of one hundred and sixty-six dollars and twenty cents; and this appellant is advised and insists that said decree is erroneous, inasmuch as the prayer of the said libel should have been granted and a reasonable and proper salvage compensation should have been awarded to said

libellant, and the said schooner, her tackle, etc., have been condemned and sold to pay the same.

And the appellant, for these and other reasons, appeals from the whole of the said decree to the next circuit court to be held in the said district; and on the said appeal they intend to seek a new decision on the facts, on the pleadings and proofs in the district court, and other proof to be produced in the circuit court, and to pray different relief; and they pray that the said decree and every part thereof may be reversed with costs, or such other decree thereupon made as to the said circuit court shall seem just, and the said appellees be condemned to pay to these appellants costs and damages in the premises.

And this appellant will ever pray, etc.

Dated New York, December 20, 1871.

C. VAN SANTVOORD,
Proctor and Advocate for Appellant.

We admit due service of a copy of the foregoing petition, this twentieth day of December, 1871.

OWEN, NASH & GRAY,
Proctors for Claimants.

(Indorsed:) Vol. 23, No. 409. United States circuit court, southern district of New York. The New York Harbor Protection Company, libellant and appellant, *agst.* the American schooner Clara, Au-
126 gustus M. Cox and others, claimants. Petition and appeal. C. Van Santvoord, proctor for appellant. Filed December 22d, 1871.

Know all men by these presents, that we, Henry A. Burr, of the city, county, and State of New York, and George M. Woodward, of the city of Brooklyn, county of Kings, and State of New York, are held and firmly bound unto Augustus M. Cox, Lemuel H. Hopkins, Silas C. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick Fort, Sarah J. Fort, and G. Kohn, claimants of the American schooner called the Clara, etc., in the sum of five hundred dollars, to be paid to the said Augustus M. Cox and others above named, claimants of said schooner Clara, etc., their executors, administrators, or assigns, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally firmly by these presents, sealed with our seals, and dated the twenty-second day of December, in the year of our Lord one thousand eight red and seventy-one.

Whereas, the New York Harbor Protection Company, as appellant, has appealed to the circuit court of the United States for the southern district of New York, in the second circuit, from a decree of the district court of the United States for the said southern district, bearing date the fifteenth day of November, 1871, in a suit in which the New York Harbor Protection Company is libellant against the American schooner called the Clara, her tackle, whereof Augustus M. Cox and others are claimants:

Now, therefore, the condition of this obligation is such, that if the above-named appellant shall prosecute said appeal with effect, and pay all damages and costs which shall be awarded against it as such appellant therein if it shall fail to make said appeal good, then this
127 obligation shall be void; otherwise the same shall be and remain in full force and effect.

H. A. BURR. [SEAL.]
G. M. WOODWARD. [SEAL.]

Sealed and delivered, and taken and acknowledged this 22d day of December, 1871, before me.

JOHN A. SHIELDS,
U. S. Commissioner S. D. of N. Y.

UNITED STATES OF AMERICA,
Southern district of New York, ss :

Henry A. Burr, of 101 Cliff street, in the city of New York, and George M. Woodward, of 71 Park Place, in the city of Brooklyn, each being duly sworn, doth depose and say, and each for himself saith, that he is worth the sum of one thousand dollars over and above all his just debts and liabilities.

H. A. BURR,
G. M. WOODWARD.

Sworn to this 22d day of December, A. D. 1871, before me.

JOHN A. SHIELDS,
U. S. Commissioner S. D. of N. Y.

This bond approved as to form and amount and sufficiency of surety. Dated New York, December 22, 1871.

OWEN, NASH, & GRAY,
Proctors for Clients.

(Indorsed:) 23—419. United States circuit court for the southern district of New York. In the second circuit. The New York Harbor Protection Company libellants, applicants, agst. The American schooner called the Clara, her tackle, etc. Augustus M. Cox and others, claimants. Bond for costs on appeal. C. Van Santvoord, proctor for appellant. Filed this 22d day of December, 1871.

(Here follows diagram, marked page 129.)

130 Circuit court of the United States for the southern district of New York.

THE NEW YORK HARBOR PROTECTION COMpany, lib'l't, app'l't,
agst.
THE SCHOONER CLARA, HER TACKLE, &C., Augustus M. Cox et al., cl'ts.

THE STEAM-TUG CLARA CLARITA, HER ENgine, &c.,
adsm.
AUGUSTUS M. COX ET AL., LIB'L'TS, APPELLEES.

Please to take notice that pursuant to the 49th rule of the Rules of Practice for the courts of the United States in admiralty and maritime jurisdiction, on the instance side of the court, in pursuance of the act of Congress in that behalf, William H. Foote, Thomas Marshall, William Knapp, William W. Vanderbilt, William Pease, Charles Hazzard, & William Minor will be examined on the part of the lib'l'ts in 1st above suit, & cl'ts in 2d suit, in the above-entitled cause, before me, (a commissioner duly appointed by the circuit court of the United States for the southern district of New York, under and by virtue of the acts of Congress in such case made and provided,) at my office, United States court buildings, 41 Chambers street, in the city of New York, on the 21st day of Dec'r, inst., at 10 o'clock in the forenoon of that

day, at which time and place you are hereby notified to be present, and put interrogatories, if you shall think fit.

Dated New York, the 19th day of Dec'r, A. D. 1872.

Yours, &c.,

R. E. STILWELL,

United States Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of New York, in the Second Circuit.

To OWEN, NASH & GRAY, Esqs.,

Proctors for Cl'ts.

131 (Endorsed:) U. S. circuit court. The N. Y. Harbor Protection Company agst. The schooner Clara, &c. Augustus M. Cox et al. agst. The steam-tug Clara Clarita, &c. Notice for ex'm'n of witnesses before R. E. Stilwell, U. S. comm'r, on the 21st Dec'r, 1872. C. Van Santvoord, proctor for N. Y. Harbor Protection Company.

Service of a notice, of which within is a copy, is hereby admitted. New York, Dec'r 19th, 1872.

OWEN, NASH & GRAY,
p'r Clara.

132 Circuit court of the United States for the southern district of New York.

THE NEW YORK HARBOR PROTECTION CO., libellant & appellant,
vs.
THE SCHOONER CLARA, HER TACKLE, &C., Augustus W. Cox et al., claimants & appellees.

THE STEAM-TUG CLARA CLARITA, HER ENGINE, &C.,
adsm.
AUGUSTUS M. COX ET AL., LIB'L'T, APPELLEE.

Testimony taken on the part of the libellant in the first suit, and on the part of the claimant in the second suit, pursuant to the 49th rule of the Rules of Practice for the courts of the United States, in admiralty and maritime jurisdiction promulgated by the Supreme Court of the United States for the taking of depositions to be read on appeals in admiralty.

SATURDAY, *December* 21st, 1872.

Present: C. Van Santvoord, esq., counsel for appellant; E. H. Owen, esq., counsel for respondent.

133 WILLIAM W. VANDERBILT, called and sworn as a witness, deposes and says:

Q. 1. Have you had any, and if so, what, experience in towing vessels in and about the harbor of New York?

A. I was attached to a tow-boat some years ago in towing vessels around the harbor of New York at that time. Since then, I have been general superintendent of the Pacific Mail Company, and have had a great many vessels towed.

Q. 2. For how long a period were you attached to a tug engaged in towing?

A. About a year and a half in the neighborhood of 1834 and 1835, and since that have been superintendent of the Pacific mail, and have had all their vessels towed around the city, to and from the dry dock, and around the harbor, and have had vessels towed at sea.

Q. 3. In your experience in towing, or in having vessels towed, did you, or did you not, ever know of a chain being used for hawser for towing?

(Obj. to.)

134 A. I never did.

Q. 4. What objections are there, if any, to the use of a chain for towing?

(Obj'd to.)

A. The inconvenience of getting the chains, being so heavy to handle, liability to get foul of the propeller of the tug in case of parting or having a slack, liability to part by having a sudden strain on it. I don't think at present of anything else.

Q. 5. In the event of a sudden sinking of the boat towed, would it endanger the safety of the tug more than a rope?

(Obj'd to as leading and as incompetent.)

A. It would, by being more difficult to cast off, and if the vessel sunk the liability to pull the vessel down with her. The chain could be cut in time, but not in a sudden emergency.

Q. 6. Why would the chain be more liable to break than a hempen or Manilla rope?

(Obj'd to.)

A. It has no elasticity, and couldn't spring any. It could not be payed out around the bitts.

135 Q. 7. Is a chain more liable to kink and thereby to break?

(Obj'd to as leading and as incompetent.)

A. Yes, sir.

Q. 8. In practice did you ever know or hear of any kind of hawser being used for towing, except a Manilla or hemp hawser?

A. I never did.

Cross-examined by E. H. Owen, esqr.:

X. 9. What are used for tiller ropes, by which to move the tiller upon tug-boats and other steam vessels?

A. Usually a rope is used around the barrel of the wheels, rods lengthwise of the vessel, the wheel being generally placed forward and chains are generally used around the tiller or rudder head.

X. 10. Why are the rods and chains so used instead of ropes all the way?

A. Because the United States inspection-laws demand it.

X. 11. Is it not because such rods and chains are less liable to burn and break in case of fire?

136 A. Rods and chains would be less liable to burn off, but the chains would be more liable to break, because there is less elasticity, and more liable to break in the sudden heaving of the wheel in a sea. They would not be liable to break in case of fire unless they be came red hot.

X. 12. What class of vessels were those towed by you? How were they laden?

A. When I was in the business of towing they were towing packet-ships in and out to sea, and towing vessels around the harbor, and they were laden with merchandise. While I was superintendent of the Pa-

cific Mail Company they were steamships of 3,000 tons burden and upwards. Other than I have already stated, I have had no practical experience in towing.

W. H. VANDERBILT.

Subscribed and sworn to before me this 21 December, 1872.

R E. STILWELL,
U. S. Commissioner.

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138 WILLIAM H. FOOT, called by Mr. Van Santvoord, deposes and says:

Q. 1. Have you had any, and, if so, what, experience about towing vessels about the harbor of New York, and for what time?

A. My experience is about 15 or 16 years, in towing all class' of vessels about the harbor of New York and at sea.

Q. 2. Do you know from your experience in towing what kind of hawsers have been used?

A. Yes, sir.

Q. 3. Go on and state what are the kind of hawsers in use for towing. (Obj. to.)

A. Hemp and Manilla.

Q. 4. Did you ever know or ever hear of a chain being used as a hawser for towing, under any circumstances? (Obj. to.)

A. No, sir.

Q. 5. Are there to your knowledge objections to the use of a chain-hawser? and, if so, state what they are

139 A. They are impossible to handle. If you wanted to get clear of a vessel you could not cast it off. It will not stand a sudden strain. If you stop your boat it would be like to get foul of the propeller-wheel and get foul of the towing-boat.

Q. 6. In case of the boat towed being liable to a sudden sinking, could a chain be used as a hawser for towing with safety to the boat towing, and, if not, why not?

A. It would endanger the tug, I should think. It would take more time to cast it off, and it could not be cut as suddenly as a hawser.

Q. 7. Would there be a further danger to the towing-vessel on a sudden parting or fouling the propeller or screw?

A. Yes, sir.

Q. 8. Did you ever know or ever hear of a chain being used as a hawser for towing by any tug-boat in or about the harbor of New York?

A. No, sir.

Cross-examined by Mr. Owen:

140 X. 9. In what way have you been engaged in towing, and what class of vessels have you towed, and how were they loaded?

A. I have towed from the very largest to the very lowest, laden with merchandise.

X. 10. Have you ever had any, and, if so, what, experience in towing boats or other vessels when in flames?

A. I towed the Metus while on fire off in the river, and the propeller Babcock put out the fire. We towed her from the slip out into the river. I have never towed any other vessels while on fire, but have towed them out of a fire.

X. 11. When was it that you towed the Metus, and how far out into the stream did you tow her before she was anchored?

A. I towed her two-thirds of the way across the river, and anchored her on the Jersey shore. This was some six or seven years ago.

X. 12. Were any of the officers or crew of that boat, or any persons, on her at the time you so towed her, and did they have anything to do with steering her?

141 A. I saw men on board of her; I did not notice whether they governed her by the wheel or not. The vessel was on fire on the outside, along the joiner-work. There was but very little wind at the time. After we got her in tow it did not take over 15 or 20 minutes to tow her.

X. 13. If, as you state, you could not safely tow a boat or other vessel by the use of a chain-cable, and the vessel was in that condition that she could not be towed by a hawser with safety, you would not undertake to tow her at all, would you?

A. No, sir.

Direct resumed:

Q. 14. Suppose the condition was such that there was risk in towing her out with a hawser, but she was in such a situation that she would would set fire to the buildings on the dock, or to other vessels, would you not undertake to tow her?

A. I would undertake to tow her if I could get the hawser attached to her, if they would undertake to do it.

142 Cross resumed:

X. 15. In such case would you contract or undertake to tow her any particular distance, or merely to haul her out in the stream, where she might be anchored or cleared from the vessel or dock?

(Objected to as irrelevant.)

A. Well, I should try to tow her as far as the hawser would permit. I would not agree to haul her to any particular place if she was all in flames, because my hawser might burn up.

WM. H. FOOTE.

Subscribed and sworn to before me this 21st day of December, 1872.

R. E. STILWELL,
U. S. Comm'r.

THOMAS F. MARSHALL, called by Mr. Van Santvoord and sworn, deposes and says:

Q. 1. Have you had any, and, if so, what, experience in towing vessels in and about the harbor of New York; and if so, about what time?

A. I have done so since 1847, as master and part owner.

143 Q. 2. Have you had anything to do with saving, wrecking, and saving vessels?

A. Yes, sir; I had charge of one of the submarine wrecking-steamers about three years ago.

Q. 3. From your experience in towing and in this other business of saving vessels, do you know what sort of hawsers were and have been used for towing? and, if so, state.

(Obj'd to.)

A. Manilla hawsers. Never used hemp on our own boats.

Q. 4. Did you ever know, or ever hear, of a chain being used as a hawser for towing, under any circumstances?

A. I never did.

Cross-examined by Mr. Owen:

X. 5. Have you had any experience in towing boats or vessels when on fire?

A. No, sir.

THOS. F. MARSHALL.

Subscribed and sworn to before me this 21st December, 1872.

R. E. STILWELL,
U. S. Comm'r.

144 WILLIAM H. KNAPP, called and sworn as a witness by Mr. Van Santvoord:

Q. 1. Have you had any, and, if so, what, experience in towing vessels in and about the harbor of New York, or in saving vessels; and, if so, what? State fully.

A. I have been engaged in towing vessels all my life. I pulled 4 vessels out of the large fire in West 10th st. some 3 or 4 years ago. I pulled the bark Louisa out of the fire in Brooklyn.

Q. 2. From your experience in towing and in this other business of saving vessels, do you know what sort of hawsers were and have been used for towing by steam-tugs? and, if so, state.

(Obj. to.)

A. Manilla.

Q. 3. Did you ever know, or ever hear, of a chain being used as a hawser, under any circumstances?

A. No, sir; I never did.

Q. 4. Will you state whether it would or would not be safe for the towing-vessel to use a chain in towing a burning vessel to prevent a conflagration, or otherwise?

145 A. If you could get a chain to it it would be safe, I think. I don't think you could get the chain to it.

Q. 5. In case of a sudden parting of a chain, if used, would or would not it be liable to foul the propeller of the towing-vessel?

A. Yes, sir; it would not be handy. It could not be kept clear.

Q. 6. In the event of a sudden sinking of the vessel towed, would or would not the towing-vessel be liable to be pulled down if a chain were used?

A. I should think it would.

Cross-examined by Mr. Owen:

X. 7. Then if you could not safely to your tow-boat tow a vessel with a chain, you wouldn't undertake to tow her at all, would you?

A. No, sir.

X. 8. Were the vessels you hauled out on the occasion of the fire in West 10th street themselves on fire?

A. No.

146 X. 9. Were those you hauled out from the dock in Brooklyn themselves on fire?

A. Yes, sir; and the vessel's name was the bark Louise. I hauled her out to anchorage in the middle of the stream; about a half a mile, I suppose. There were persons on board of her at the time. They used her wheel in steering her.

Direct resumed:

Q. 10. Suppose the condition were such that the progress of the

flames would set fire to the buildings on dock, and perhaps to burn up the town, would you not then attempt to tow her out?

(Obj'd to.)

A. Yes, sir; the buildings were all on fire, and the dock also, at the time I pulled her out.

Q. 11. You have not answered the question.

(Obj. to.)

A. I would if I could get a line to her.

WM. H. KNAPP.

Subscribed and sworn to before me this 21st December, 1872.

R. E. STILWELL,

147 *U. S. Comm'r.*

148 WILLIAM MINNER called and sworn on part of Mr. Van Santvoord:

Q. 1. Have you had any, and, if so, what, experience in towing vessels in and about the harbor of New York, or in saving vessels that were in distress? and if so, state what.

A. I have had an experience of 16 or 17 years in towing vessels to and from sea and about the harbor of New York, of all classes, from the biggest to the smallest. I have helped pull vessels off the Jersey shore to save them.

Q. 2. From your experience in towing and in saving vessels do you know what sort of hawsers were and have been used? and if so, state.

(Obj. to.)

A. Manilla, hemp, and what is called Ky-yy, a kind of rope.

Q. 3. Did you ever know or hear of a chain being used as a hawser for towing under any circumstances?

A. No, sir.

Cross-examined by Mr. Owen:

149 X 4. Have you had any experience in towing boats or vessels when on fire?

A. No, sir.

his

WILLIAM + MINNER.

mark.

Subscribed and sworn to before me this 21st December, 1872.

150 WILLIAM PEASE, called by Mr. Van Santvoord, and sworn, deposes and says:

Q. 1. Have you had any, and, if so, what, experience in and about the harbor of New York in towing vessels, or in saving vessels that were in distress; and if so, what?

A. I have been in the towing business around New York since 1828. I have never saved but one vessel; she was outside of Sandy Hook, and capsized.

Q. 2. From your experience in towing do you know what sort of hawsers were, and have been, used? and if so, state.

(Obj. to.)

A. We generally use a Manilla hawser, and sometimes a tarred hawser, or what is called hemp, and sometimes we use in Ky-yy, a kind of rope made out of grass.

Q. 3. Did you ever know or hear of a chain being used as a hawser for towing, under any circumstances?

(Obj. to.)

A. No, sir; I never did.

Q. 4. State whether there are any, and, if any, what, objections to the use of a chain hawser.

151 A. Well, in the first place, we would not have crew enough on board to make it fast. In the next place, if it got jammed we could not cut it loose, and how many times when we are towing a hawser gets jammed, and if we hadn't an axe to cut it loose it would have upset the tug. A chain-hawser cannot be used with safety to a tug.

Cross-examined by Mr. Owen:

X. 5. Then the only difficulty in using a chain-hawser in towing vessels is, that it cannot be done with safety to the tug?

A. Yes; it could not be done with safety to the tug. There are other reasons, which I have already stated.

WILLIAM PEASE.

Subscribed and sworn to before me this 21st December, 1872.

R. E. STILWELL,
U. S. Comm'r.

152 I, R. E. Stilwell, a U. S. commissioner, duly appointed, &c., do certify that pursuant to the 49th Rule of the Supreme Court of the United States, in admiralty, I caused the witnesses whose names are subscribed to the annexed depositions to appear before me on the 21st of December, 1872, and after being duly sworn by me, they gave the depositions hereto annexed, which were taken down by me in my own proper handwriting.

I further certify that Messrs. Van Santvoord and Owen, counsel for respective parties, appeared on the taking of the same.

R. E. STILWELL,
U. S. Comm'r for the Southern District of New York.

(Endorsed:) Circuit court U. States southern district of New York. The New York Harbor Protection Company, libellant and appellant, vs. The schooner Clara, her tackle, &c., Augustus M. Cox et al., claimants. The steam-tug Clara Clarita, her engine, &c., ads. Augustus M. Cox et al., libellants and appellees. Filed December 23, 1872.

153

154 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court rooms, in the city of New York, on Monday, the 16th day of June, in the year of our Lord one thousand eight hundred and seventy-three.

Present: The honorable Lewis B. Woodruff, circuit judge.

THE NEW YORK HARBOR PROTECTION COMPANY, libellants & appellants,
vs.
THE SCHOONER CLARA, &C., A. M. COX ET AL., claimants & appellees.

STEAM-TUG CLARA CLARITA, &C., & THE NEW York Harbor Protection Co.,
ads.
AUGUSTUS M. COX ET AL.

The above-entitled causes coming on for hearing on appeal from the district court of the U. S.:

Mr. C. Van Santvoord is heard in behalf of the libellants and appellants.

155

156 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court rooms, in the city of New York, on Tuesday, the 17th day of June, in the year of our Lord one thousand eight hundred and seventy-three.

Present: The honorable Lewis B. Woodruff, circuit judge.

THE NEW YORK HARBOR PROTECTION COMpany, libellants & appellants,
vs.
THE SCHOONER CLARA, &c., A. M. COX ET AL., cl'm'ts & appellees.

THE STEAM-TUG CLARA CLARITA, &c.—THE N. Y. Harbor Protection Co.,
ads.
AUGUSTUS M. COX ET AL.

The above-entitled causes being still on hearing:

Mr. C. Van Santvoord concludes his argument in behalf of the libellants & appellants.

Mr. E. H. Owen is heard in behalf of the respondents and appellees.

Cur. adv. vult.

157

158 Circuit court of the United States for the southern district of New York. In admiralty.

C. Van Santvoord, for appellants; Edw'd H. Owen, for appellees.

THE NEW YORK HARBOR PROTECTION COMpany, appellants,
vs.
THE SCHOONER CLARA, &c.

AUGUSTUS M. COX ET AL.
vs.
THE STEAM-TUG CLARA CLARITA, &C., APPELlant.

WOODRUFF, J.

I concur in the conclusion of the district judge in these cases, and for substantially the same reasons assigned in his opinion.

Assuming that the owners of the ferry-boat exercised a lawful right to remove their boat from the slip in which it lay, (and no doubt they had such a right, notwithstanding she was on fire, and whether her remaining in the slip did or did not involve danger to other property,) whoever attempted her removal was bound to use precautions to

159 prevent her from being carried by wind and tide against other vessels lying at anchor in the harbor, corresponding to the danger and consequences of such a result. The danger was extraordinary, and more than usual precautions to secure and retain control of the burning mass were therefore required by ordinary prudence. Reasonable care in such circumstances is not to be determined by the ordinary usages of tugs engaged in towing when no such circumstances of peril to others

existed. Proofs, therefore, of the customary practice of tugs engaged in towing vessels in and about the harbor, to use hempen hawsers only, does not furnish a satisfactory test of the caution and care due from a tug-boat professedly engaged in the business of rescuing vessels from conditions of extraordinary peril, including fire on board.

The testimony taken in this court does not, I think, exoner-
160 ate the tug. It is so obvious as to hardly require proof that a chain attached to the burning boat would have prevented the loss of control over her. The use of such a chain is not proved impracticable, and it is equally obvious, I think, that it was not only practicable but easy.

No heavy anchor-chain extending from one boat to the other, which the hands of the boat could not manage, was required. And that was essential was that the attachment to the burning boat extending a few feet therefrom should be incombustible; for the rest a rope or hempen hawser was sufficient. The parties expected the flames to spread through and over the burning boat. It was this expectation which induced the attempt to remove her from the slip. In view of this it was negligence to remove her under no other control than a rope which presumptively would be burned off so soon as the expected spread of the fire should reach it. In this respect it was not like a shifting
161 of the location of the boat with a view to the extinguishment of the fire before it should thus extend. Before any hawser was attached for the purpose of drawing her from the slip, chains were to be found both on the ferry-boat and on the tug, and it is not to be doubted that a chain of suitable length to form a connection of the hawser to the burning boat might readily have been elsewhere procured.

In regard to the alleged neglect of the schooner in not keeping an anchor watch, and as to the allowance of damage by the commissioner, it is sufficient to say that I concur in the opinion of the district judge and his overruling the exceptions to the report of the commissioner.

The decree in each case must be entered in conformity with the decision below; dismissing the libel for salvage in the first entitled cause, and awarding the damages found in favor of the libellants in the second. Costs in each case.

162 (Indorsed:) Circuit court of the United States for the southern district of New York. The N. Y. Harbor Protection Co. vs. The schooner Clara, &c. Augustus M. Cox et al. vs. The Steam-Tug Clara Clarita, &c. Woodruff, cir't j. Filed Aug. 12, '73.

163

164 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms in the city of New York, on Monday, the 5th day of September, in the year of our Lord one thousand eight hundred and seventy-three.

Present, the honorable Lewis B. Woodruff, circuit judge.

THE SCHOONER CLARA, HER TACKLE, &C., APPELLEES, *ads.* THE NEW YORK HARBOR PROTECTION COMPANY, appellants.

The appeal of the libellants in this cause coming on to be heard, after hearing C. Van Santvoord, esq., advocate for the said libellants and appellants, and E. H. Owen, advocate for the appellees, and after due

deliberation thereon, it is ordered, adjudged, and decreed that the decree of the district court of the United States for the southern district of New York, made and entered in this cause on the 15th day of November, 1871, dismissing the libel herein with costs, be, and the same is hereby, affirmed, with costs.

And it is further ordered, adjudged, and decreed that the said
165 claimants and appellees do recover against the libellants and appellants their costs in the said district court, taxed at one hundred and sixty-six dollars and twenty cents, with interest thereon, amounting to the sum of twenty-one dollars; and also their costs in this court taxed at ninety-six dollars and cents, and which said costs, in the aggregate, amount to two hundred and eighty-three dollars and twenty cents.

And it is further ordered, adjudged, and decreed that unless the last-mentioned sum, with interest, be paid, or an appeal be taken from this decree, within the time limited and prescribed by the rules and practice of this court, the claimants and appellees have execution to collect the same according to law and the course and practice of this court.

(Signed) L. B. WOODRUFF,
Circuit Judge.

(Indorsed:) U. S. circuit court. The schooner Clara, her tackle, &c., appellees, *ads.* the New York Harbor Protection Company, appellants. Final decree. Owen, Nash & Gray, proctors for cl'ts & appellees. Filed Sept. 10, 1873.

166 U. S. circuit court, southern district of New York.

THE NEW YORK HARBOR PROTECTION COMPANY, libellant and appellant,
against
THE AMERICAN SCHOONER "CLARA," her tackle, &c., Augustus M. Cox, Lemuel H. Hopkins, Silas C. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick Fort, Sarah J. Fort, and G. Kohn, claimants and appellees.

Take notice that the New York Harbor Protection Company, libellants, hereby appeal to the Supreme Court of the United States from the whole and every part of the final decree, bearing date the fifth day of September, 1873, and entered in the above-entitled cause with the clerk of this court, on or about the 10th day of September, 1873, in favor of the claimants and appellees.

New York, September 13th, 1873.

Yours, &c.,

C. VAN SANTVOORD,
Proctor for Libellant & Appellant.

To KENNETH G. WHITE, Esq.,
Clerk of the U. S. Circuit Court.
OWEN, NASH & GRAY, Esqrs.,
Proctors for Cl'm'ts Appellees.

167 (Indorsed:) U. S. circuit court, S. D. of New York. The New York Harbor Protection Company, libellants and appellants, ag'st the American schooner "Clara," her tackle, &c., Augustus M. Cox et als.,

claimants and appelles. Notice of appeal. C. Van Santvoord, proctor for lib'l't and app'l't.

Service of a copy of within notice is hereby admitted.
N. Y., Sept. 15, 1873.

OWEN, NASH & GRAY,
Proc's for Cl'ts and Appellees.

Filed Sept. 17, 1873.

168 Circuit court of the United States for the southern district of New York:

THE NEW YORK HARBOR PROTECTION Company, libellant and appellant.
ag'st
THE SCHOONER CLARA, HER TACKLE, &C. Augustus M. Cox, Lemuel H. Hopkins, Silas C. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick Fort, Sarah J. Fort, and G. Kohn, claimants and appellees. } Case.

The libellant, the New York Harbor Protection Company, having appealed from the decree made in favor of the appellees in the district court of the United States for the southern district of New York, the cause came on to be heard anew in in this court before the honorable Lewis B. Woodruff, circuit judge, at a circuit court held in and for the southern district of New York, at the city of New York, on the 16th and 17th day of June, 1873.

And on the hearing the libel and answer being read, the counsel for the libellant read in evidence from the apostles, on the part of the libellant, the direct examination of the witnesses appearing therein to have
169 been called for the libellant, and the counsel for the claimant read in evidence the cross-examination of each and every of said witnesses from said apostles.

And the counsel for said claimants read in evidence from said apostles on the part of the claimants the direct examination of the witnesses appearing therein to have been called for the claimants, and the counsel for the libellant read in evidence the cross-examination of each and every of said witnesses from said apostles.

The counsel for the libellant then read in evidence on the part of the appellant the direct examination, the counsel for the claimants reading the cross-examination of the following witnesses from their respective depositions:

William W. Vanderbilt, dep., Dec. 21, 1872.
William H. Foote, dep., Dec. 21, 1872.
Thomas F. Marshal, dep., Dec., 21, 1872.
William H. Knapp, dep., Dec. 21, 1872.
William Minner, dep., Dec. 21, 1872.
William Pease, dep., Dec. 21, 1872.

And therewith the evidence was closed and the cause was summed up by the respective counsel and submitted to the said circuit judge, who thereafter made his decree herein dated September 5th, entered in the office of the clerk of said circuit court on September 10th, 1873.

New York, Sept. 13, 1873.

170, 171 (Endorsed:) U. S. circuit court, S. D. of New York. The New York Harbor Protection Company, libellant and appellant, agst.

The schooner Clara, her tackle, &c., Augustus M. Cox et. al., claimants and appellees. Case. C. Van Santvoord, proctor for the lib'l't appl't.

Within case settled by consent.

N. Y., Sept. 13, 1873.

OWEN, NASH & GRAY,
Proc's for C'lts & Appellants.

Filed Sept. 17, 1873.

172 Supreme Court of the United States.

THE NEW YORK HARBOR PROTECTION COMpany, libellant and appellant,
against
THE AMERICAN SCHOONER CLARA, HER TACKLE, &c., Augustus M. Cox, Lemuel H. Hopkins, Silas C. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick Fort, Sarah J. Fort, and G. Kohn, claimants and appellees.

To the honorable the Supreme Court of the United States.

The petition and appeal of the above-named appellant showeth:

That on or about the thirtieth day of August, 1870, the above-named libellant filed its libel in the district court of the United States for the southern district of New York against the American schooner called the Clara, her tackle, &c., and against all persons intervening for their interests therein, in a cause of salvage, civil, and maritime, in which libel it is alleged and praying as therein contained, and to which the petitioner refers for its contents; that thereafter, on or about the eighth day of October, 1870, the said claimants having executed the necessary stipulations for costs and value, did file their claim and answer,
173 alleging as therein contained, and insisting that the said schooner was not liable to pay any salvage, as claimed by said libellant, and praying that said district court would pronounce against the said libel and condemn the libellant in costs, as will more fully appear on reference to said answer, and to which for the contents thereof this appellant asks leave to refer. That thereafter the said cause came on to be tried and to be heard before the honorable Samuel Blatchford, judge of said district court, on the 24th, 27th, and 30th days of October, 1871, upon the allegations and proofs adduced by the respective parties; and the said judge having advised thereon, on or about the 15th day of November, 1871, made a final decree dismissing said libel with costs to be taxed, and which were thereafter taxed at the sum of one hundred and sixty-six dollars and twenty cents; that this appellant being advised that said decree of said district court was erroneous, inasmuch as the prayer of the said libel should have been granted, and a reasonable and proper salvage compensation should have been awarded to said libellant, and the said schooner, her tackle, &c., have been condemned and sold to pay the same, appealed from said decree to the circuit court of the United States in and for the southern district of New York;
174 and in its petition of appeal to said circuit court gave notice that on said appeal it intended to seek a new decision on the facts, on the pleadings and proofs to be produced in the circuit court, and to pray different relief; and it prayed in its said petition, that said decree and every part thereof might be reversed with costs, or such other decree thereupon made as to the circuit court should seem just; and that said appellees should be condemned to pay to this appellant its costs and damages.

That thereafter the said cause came on to be tried and to be heard before the honorable Lewis B. Woodruff, sitting as circuit judge in the city of New York, in said southern district of New York, on the 16th and 17th days of June, 1873, in the April term of said court, upon the allegations and proofs adduced by the respective parties, which had been transmitted on the said appeal to said circuit court, and upon the further proofs adduced by the said libellant, which had been taken in said circuit court.

And the said circuit judge having advised thereon, made his decree bearing date the fifth day of September, 1873, and entered on or about the tenth day of September, 1873, with the clerk of said court; thereby affirming the said decree of said district court, and adjudging and decreeing as therein contained; to which said decree this appellant refers for its contents.

175 And this appellant is advised and insists that said decree is erroneous, inasmuch as the said decree of said district court should have been reversed, and the prayer of the said libel should have been granted.

And this appellant, for these and other reasons, appeals from the whole and every part of said decree of said circuit court to the Supreme Court of the United States, and prays that the said decree and every part thereof may be reversed, and the prayer of the said libel granted with costs, or that such other decree to may be made as to the said Supreme Court shall seem just; and that the said claimants may be condemned to pay to this appellant its costs and damages in the premises.

And this appellant will ever pray, &c.

Dated New York, September 15th, 1873.

C. VAN SANTVOORD,
Proctor & Advocate for Appellant.

We admit due service of a copy of the foregoing petition this 15th day of September, 1873.

OWEN, NASH & GRAY.

(Endorsed:) U. S. Supreme Court. The New York Harbor Protection Company, libellant and appellant, against The American
176 schooner "Clara," her tackle, &c., Augustus M. Cox and others, claimants and appellees. Petition of appeal. C. Van Santvoord, proctor for lib'l't & app'l't. Filed Sept. 17, 1873.

177, 178 *Bond for costs.*

Circuit court of the United States of America for the southern district of New York, in the second circuit.

THE NEW YORK HARBOR PROTECTION COMPANY, libellant & appellant,
vs.
THE AMERICAN SCHOONER "CLARA," HER tackle, &c., Augustus M. Cox, Lemuel H. Hopkins, Silas E. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick Fort, Sarah J. Fort, and G. Kohn, claimants & appellees.

Know all men by these presents that we, Henry A. Burr, of the city, county, and State of New York, and George M. Woodward, of the city

of Brooklyn, county of Kings, and State of New York, are held and firmly bound unto the above-named Augustus M. Cox, Lemuel H. Hopkins, Silas C. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick Fort, Sarah J. Fort, & G. Kohn in the sum of six hundred dollars, to be paid to the said obligees for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally firmly by these presents, sealed with our seals, and dated the sixteenth day of September, in the year of our Lord one thousand eight hundred and seventy-three.

Whereas the above-named The New York Harbor Protection Company has prosecuted an appeal to the Supreme Court of the United States, to reverse the decree rendered in the above-entitled suit by the judge of the circuit court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such that if the above-named appellant shall prosecute its said appeal to effect and answer all damages and costs if it fail to make its said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

H. A. BURR. [L. S.]
G. M. WOODWARD. [L. S.]

Sealed and delivered and taken and acknowledged this 16 day of Sept., 1873, before me.

R. E. STILWELL,
U. S. Com'r.

179 UNITED STATES OF AMERICA,
Southern District of New York ss:

Henry A. Burr, of No. 44 East 34 s't, in the city of New York, and George M. Woodward, of No. Park Place, in the city of Brooklyn, being duly sworn, each depose and says that he is a freeholder, and that he is worth the sum of twelve hundred dollars over and above all his just debts and liabilities.

H. A. BURR.
G. M. WOODWARD.

Sworn to this 16th day of Sept., A. D. 1873, before me.

R. E. STILWELL,
U. S. Com'r.

This bond approved as to form and amount and sufficiency of the sureties.

New York, Sept. 16, 1873.

SAM'L BLATCHFORD.

(Indorsed:) Vol. Page U. S. circuit court. The New York Harbor Protection Comp'y, lib'l't & appellant vs. The American schooner "Clara," her tackle, &c., Augustus M. Cox et al., claimants & appellees. Bond for damages & costs on appeal to U. S. Sup. C't. C. Van Santvoord, app'l'ts' proctor, 6 Hanover s't. Filed this 17 day of Sept., 1873.

180 By the honorable Samuel Blatchford, one of the judges of the circuit court of the United States for the southern district of New York, in the second circuit, to Augustus M. Cox, Lemuel H. Hopkins, Silas C. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick Fort, Sarah J. Fort, and G. Kohn:

Whereas the New York Harbor Protection Company, libellant, has lately appealed to the Supreme Court of the United States from a decree lately rendered in the circuit court of the United States for the southern district of New York, in the second circuit, made in favor of you, the said Augustus M. Cox, Lemuel H. Hopkins, Silas C. Evans, Samuel S. Thorp, Thomas R. Fort, Abraham Fort, Frederick Fort, Sarah J. Fort, and G. Kohn, as claimants of the American schooner Clara, her tackle, &c., against the said the New York Harbor Protection Company, libellant, and has filed the security required by law: You are, therefore, hereby cited to appear before the said Supreme Court, at the city of Washington, on the second Monday of October next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand and seal the 16th day of September, in
181 the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the United States the ninety-eighth.

(S'd) SAM'L BLATCHFORD. [L. S.]

(Endorsed:) U. S. Supreme Court. The New York Harbor Protection Company, libellant, appellant, ag'st The American schooner Clara, her tackle, &c., Augustus M. Cox and others, cl'nts, appellees. Citation. C. Van Santvoord, proctor for appellant.

Service of a copy of within citation is hereby admitted.
New York, Sept. 17, 1873.

OWEN, NASH & GRAY,
Proc's for Appellees.

Filed Sept. 7, 1873.

182 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from one to 181 inclusive, contain a true and complete transcript of the record and proceedings had in said court in the case of The New York Harbor Protection Company, libellant & appellant, against The schooner Clara, her tackle, &c., A. M. Cox & als, cl'nts & appellees, as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this 2d day of October, in the year of our Lord one thousand eight hundred and seventy-three, and of the Independence of the said United States the ninety-eighth.

[SEAL.] KENNETH G. WHITE, *Clerk.*

(Indorsement on cover:) No. 229. The New York Harbor Protection Company, appellant, *vs.* The American schooner Clara, her tackle, &c., Augustus M. Cox, Lemuel H. Hopkins, et al. S. New York C. C. U. S. Filed 11th October, 1873.